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Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
amending Regulation (EU) 806/2014 in order to establish a European Deposit Insurance
Scheme

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REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**amending Regulation (EU) 806/2014 in order to establish a European Deposit Insurance Scheme****EXPLANATORY MEMORANDUM**

This legislative proposal envisages the establishment of a European Deposit Insurance Scheme (EDIS) as the third pillar of Banking Union in three successive stages: a reinsurance scheme for participating national DGSs in a first period of three years, a co-insurance scheme for participating national DGSs in a second period of four years, and full insurance for participating national DGSs in the steady state. A national DGS can only benefit from EDIS if its funds are being built up in line with a precise funding path and it otherwise complies with essential requirements under Union law. The Single Resolution Board, which would be expanded to administer EDIS, would monitor national DGSs and release funds only where clearly defined conditions are met. The introduction of EDIS would be accompanied by ambitious measures in parallel to reduce risks in the banking sectors of Member States.

1. CONTEXT OF THE PROPOSAL**1.1. Reasons for and objectives of the proposal**

In 2012, the Commission called for a Banking Union that would place the banking sector on a more sound footing and restore confidence in the Euro as part of a longer term vision for economic and fiscal integration.¹ The Banking Union should be implemented by shifting supervision to the European level, establishing an integrated framework for bank crisis management and, equally important, a common system for deposit protection. While the first two steps have been achieved by the establishment of the Single Supervisory Mechanism (SSM) and the Single Resolution Mechanism (SRM), a common system for deposit protection has not yet been established.

The Five Presidents' Report² and the Commission's follow-up Communication³ set out a clear plan for deepening Economic and Monetary Union (EMU), including steps to further limit risks to financial stability. Completing the Banking Union is an indispensable step towards a full and deep EMU. For the single currency, a unified and fully integrated financial system is key for effective monetary policy transmission, adequate risk diversification across Member States and general confidence in the euro area banking system.

¹ Communication from the Commission to the European Parliament and the Council 'A Roadmap towards a Banking Union', COM(2012) 510, 12.9.2012.

² Five Presidents' Report of 22 June 2015 on "Completing Europe's Economic and Monetary Union" http://ec.europa.eu/priorities/economic-monetary-union/docs/5-presidents-report_en.pdf

³ Communication from the Commission to the European Parliament, the Council and the European Central Bank on steps towards Completing Economic and Monetary Union, COM(2015) 600 final 21.10.2015.

In particular, the Five Presidents' Report proposes to establish, in the long term, a European Deposit Insurance Scheme (EDIS), as the third pillar of a fully-fledged Banking Union alongside bank supervision, which has been entrusted to the SSM, and with bank resolution, which has been entrusted to the SRM.

The Five Presidents' Report signals that, as the current set-up with national Deposit Guarantee Schemes (DGSs) remains vulnerable to large local shocks, common deposit insurance would increase the resilience of the Banking Union against future crises.

The Commission committed in its follow-up Communication of 21 October to put forward a legislative proposal before the end of 2015 on the first steps towards EDIS with a view to creating a more European system, disconnected from the sovereign, so that financial stability is enhanced, citizens can be certain that the safety of their deposits does not depend on their geographical location, and sound banks are not penalised by their place of establishment.

The Commission indicated, in line with the Five Presidents' Report, that a first step would be taken towards a more common system, building on a "reinsurance-based" approach that would take into account different funding levels in national schemes and moral hazard issues. A joint Deposit Insurance Fund would be created, managed under the auspices of the existing Single Resolution Board. The EDIS would be mandatory for euro area Member States and open to non-euro area Member States willing to join the Banking Union.

EDIS would progressively evolve from a reinsurance scheme into a fully mutualised co-insurance scheme over a number of years. In the context of efforts to deepen the EMU, together with the work on the establishment of bridge-financing arrangements for the Single Resolution Fund (SRF) and on developing a common fiscal backstop, this step is necessary to reduce the bank/sovereign links in individual Member States by means of steps towards risk sharing among all the Member States in the Banking Union, and thereby to reinforce the Banking Union in achieving its key objective. However, such risk sharing implied by steps to reinforce Banking Union must proceed in parallel with risk reducing measures designed to break the bank-sovereign link more directly.

1.2. Consistency with existing policy provisions in the policy area

This proposed Regulation is consistent with existing policy provisions.

Following the establishment of the SSM by Council Regulation (EU) No 1024/2013⁴ and of the SRM by Regulation (EU) No 806/2014⁵, EDIS addresses the misalignment between the Union supervision and resolution of banks in the participating Member States, on the one hand, and the effectiveness and credibility of national DGSs in case of failure of those same

⁴ Council Regulation (EU) No 1024/2013 of 15 October 2013 conferring specific tasks on the European Central Bank concerning policies relating to the prudential supervision of credit institutions OJ L 287, 29.10.2013, p. 63–89.

⁵ Regulation (EU) No 806/2014 of the European Parliament and of the Council of 15 July 2014 establishing uniform rules and a uniform procedure for the resolution of credit institutions and certain investment firms in the framework of a Single Resolution Mechanism and a Single Resolution Fund and amending Regulation (EU) No 1093/2010 OJ L 225, 30.7.2014, p. 1–90.

banks pursuant to the Directive 2014/59/EU on Deposit Guarantee Schemes⁶ (DGS Directive), on the other.

This proposed Regulation builds on the existing framework of national DGSs as governed by the DGS Directive. The uniform application of the deposit guarantee framework in the Member States participating in EDIS would be enhanced as a result of this proposed Regulation through the attribution to a Single Resolution and Deposit Insurance Board ("the Board") of decision-making, monitoring and enforcement powers relating to the deposit guarantee framework.

1.3. Consistency with other Union policies

EDIS would contribute to reducing the link between the perceived fiscal position of individual Member States and the funding costs of banks operating in those Member States and thereby help breaking the link between sovereigns and banks. This would increase the resilience of the banking sector against future crises and contribute to the overall objective of financial stability which underpins the **economic and monetary policy of the Union**. Risks would be spread more widely, enhancing financial stability not only in the Member State concerned but also in other participating and non-participating Member States, by limiting potential contagion effects. Moreover, it will help restore the level playing field in the internal market by limiting the competitive disadvantage that sound banks are suffering because of their place of establishment. In an environment of financial stability, lending from financial institutions to the wider economy is incentivised by reduced funding costs of funding for financial institutions, thereby boosting growth and employment and enhancing the competitiveness of the Union's economy.

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

2.1. Legal basis

The legal basis for the proposed Regulation is Article 114 of the Treaty on the Functioning of the European Union (TFEU), which allows the adoption of measures for the approximation of national provisions aiming at the establishment and functioning of the internal market.

The proposed Regulation aims to preserve the integrity and enhance the functioning of the internal market. Uniform application of a single set of rules for deposit protection, together with access to a European Deposit Insurance Fund ("the Deposit Insurance Fund") managed by a central authority would contribute to the orderly functioning of the Union financial markets and to financial stability in the Union. It would remove obstacles to the exercise of fundamental freedoms avoiding significant distortion of competition, at least in those Member States which share the supervision and resolution of credit institutions and the protection of depositors at the European level.

Article 114 of the TFEU is, therefore, the appropriate legal base.

2.2. Subsidiarity (for non-exclusive competence)

Under the principle of subsidiarity set out in Article 5(3) of the Treaty on European Union (TEU), in areas which do not fall within its exclusive responsibility, the Union should act only if and in so far as the objectives of the proposed action cannot be sufficiently achieved by the Member States, either at central level or at regional and local level, but can rather, by reason of the scale or effects of the proposed action, be better achieved at Union level.

⁶ Directive 2014/49/EU of the European Parliament and of the Council of 16 April 2014 on deposit guarantee schemes, OJ L 173, 12.6.2014, p. 149–178.

In the current situation, where DGS remain purely national, they are vulnerable to large local shocks maintaining a strong interaction between banks and their national sovereign. This situation undermines the homogeneity of protection for deposits and can contribute to a lack of confidence among depositors.

Furthermore, substantial differences in the protection of depositors taken at national level, and subject to local specificities and funding constraints, may undermine the integrity of the internal market.

Only action at European level can ensure appropriate deposit insurance for depositors across the internal market and weaken the link between national DGSs and the financial position of the respective sovereign.

The SSM ensures a level playing field in the supervision of banks and diminishes the risk of forbearance. The SRM ensures that, when a bank failure occurs, restructuring can be carried out at the least cost, taxpayers are adequately protected, and creditors and credit institutions receive fair and equal treatment across the internal market without being penalised because of their place of establishment. In the same vein, it is appropriate that the Union takes legislative action to establish the arrangements necessary to protect deposits of credit institutions which would fall under the scope of the Banking Union.

Furthermore, EDIS would bring significant economies of scale and would avoid the negative externalities that may derive from purely national decisions and funds.

2.3. Proportionality

The proposal is in line with the principle of proportionality. Under the principle of proportionality as established by Article 5(4) of the TEU, the content and form of Union action shall not exceed what is necessary to achieve the objectives of the Treaties.

In the Banking Union, bank supervision and resolution are exercised at the same level of authority. Tensions may arise if a European resolution authority were to decide on the liquidation or resolution of a bank without being able to ensure that deposits are protected in the process, causing financial stability risks. Indeed, the recent crisis highlighted the need for swift and decisive action backed by European level funding arrangements. EDIS would ensure that the same rules are applied in the same manner to protect deposits in any participating Member State. Adequate backup funding would mitigate problems in individual banks from translating into a loss of confidence in the entire banking system of the Member State or of other Member State perceived by markets to be exposed to similar risks.

The added legal certainty, aligned incentives in the Banking Union context, and economic benefits of central and uniform protection of depositors make the proposed Regulation compliant with the principle of proportionality.

2.4. Choice of the instruments

A progressively centralised application of the deposit guarantee rules laid down in the DGS Directive, by a single Union authority in the participating Member States, can be ensured only where the rules governing the establishment and functioning of EDIS are directly applicable in the Member States to avoid divergent interpretations across Member States. This and the fact that a Deposit Insurance Fund is set up at the level of the Banking Union, to be managed by a Board representing all members of the Banking Union, require a Regulation as the appropriate legal instrument.

3. RESULTS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS

3.1. What is the problem and why is it a problem?

In the Banking Union, deposit insurance remains purely national, which leaves national DGSs vulnerable to large local shocks and Member States' budgets continue to be exposed to risks in their banking sectors. This prevents the realization of the full benefits of the internal market and of the Banking Union and potentially negatively affects depositor confidence and the rights of establishment of credit institutions and depositors.

DGSs are in place in all Member States, as required by the DGS Directive. Although they already share some common aspects regarding their main features and their functioning, important aspects are still left at the discretion of Member States. Member States can also authorise, upon approval by the European Commission, reduced target levels for available financial means.

The differences in funding levels and size of the existing 38 DGSs in the EU may negatively affect depositors' confidence and could impair the functioning of the internal market.

3.2. Why should the EU act?

EDIS would complement the Banking Union alongside bank supervision and resolution. It would both reduce the vulnerability of bank depositors to large local shocks and further reduce the link between banks and their home sovereign. Furthermore, in a system where the responsibilities for bank supervision and resolution are shared, the circumstances under which a national DGS may be used are already not any longer under national control. Both Directive 2014/59/EU (the Bank Recovery and Resolution Directive – BRRD) and Regulation (EU) No 806/2014 (the Single Resolution Mechanism Regulation – SRMR) contain provisions on the possible use of DGS funds in resolution. Hence, establishing a common system also for deposit insurance is a logical next step in completing the Banking Union, and better aligns liability and control.

3.3. What can be achieved?

A quantitative analysis has considered the effectiveness of a fully mutualised EDIS in coping with potential pay-outs. The analysis indicates that the number and size of banks for which the Deposit Insurance Fund could handle pay-outs increases significantly for all Member States under EDIS compared to national DGSs.

Furthermore, the analysis indicates that the expected shortfall of a payout, expressed as percentage of the target level, would be lower for EDIS than for any of the national DGSs.

The above assessments have been made under the assumption that EDIS would not require additional contributions from banks, but that banks' contributions envisaged for the building up of national funds would alternatively be used to build up EDIS. The results show that having the same amount of funds, but made available for a single European DGS, could represent a more efficient protection and use of funds than maintaining purely national DGSs.

3.4. What are the various options to achieve the objectives?

3.4.1. *Current funding levels in the EDIS design*

The assessment shows that EDIS would start on the basis of very heterogeneous funding levels of national DGSs. This implies that EDIS needs to provide liquidity support in its initial phase, as otherwise local DGS would still depend almost exclusively on national alternative funding means. Second, EDIS should be designed in a way that avoids disproportionate

advantages for schemes which have not yet started collecting *ex-ante* funds and avoids disincentives to do so in the future.

3.4.2. Scope of EDIS

It is expected that differences in funding levels would no longer be an issue when DGSs have followed their obligations in the DGS Directive to build-up *ex-ante* funds. The analysis shows that a common system would operate more efficiently, i.e. providing a higher level of protection without the need to increase overall contributions. It would also be better placed to reduce Member States' exposure to their domestic banking system.

3.4.3. Contributions

The analysis shows that (i) the risk-weighting of contributions changes the distribution of the financial burden among the banks of a given banking sector, (ii) assessing the risk of a given bank relative to the banks of the Banking Union rather than to the banks of the national or DGS's banking sector is likely to change the level of contribution to be paid by that *individual* bank. However, no group of banks was identified as being advantaged or disadvantaged.

The likelihood that a DGS may have to mobilise funds to compensate depositors increases with the risk of that bank. Hence the proposal envisages to risk-adjust contributions, i.e. continues the principle already established by the DGS Directive.

Second, the analysis shows that the comparison group has an impact on the contributions paid by individual institutions. Therefore, in the reinsurance phase of EDIS, where risks largely remain at the national level, an individual bank's risk profile is determined relative to the remainder of its national banking system. Once EDIS becomes a system with joint liability at Banking Union level, an individual bank's risk profile is determined relative to all banks in the Banking Union. This would ensure that EDIS remains cost-neutral overall for banks and national DGSs, and avoid complications in determining banks' risk profiles in the build-up phase of the Deposit Insurance Fund.

3.5. Fundamental rights

The proposed Regulation has no consequences for the protection of fundamental rights further than those of the Regulation and Directive that it modifies and which are respectively catered for in the explanatory memoranda of Regulation (EU) No 806/2014, establishing a Single Resolution

4. BUDGETARY IMPLICATIONS

Concerning its EDIS-related functions, the Board would be fully financed by administrative contributions from credit institutions affiliated to participating DGSs. In turn, this means that the EDIS-related functions will not necessitate a contribution from the EU budget. The additional human resources of the Board amounting to 22 full-time equivalent units in the form of establishment plan posts, contract agents and Seconded National Experts in year nine, after the phase of full insurance has been reached, mirror the tasks that the proposed Regulation entrusts to it. In the same way as for the creation of the Single Resolution Board, the posts required for the extension of the tasks of this new body fall outside the scope of the 5 % staff reduction target set out in the communication from the Commission to the European Parliament and the Council COM(2013) 519 of 10.7.2013.

Concerning its EDIS-related functions, the Board would be fully financed by administrative contributions from credit institutions affiliated to participating DGSs. The additional resources of the Board mirror the tasks that the proposed Regulation entrusts to it.

5. DETAILED EXPLANATION OF THE PROPOSAL

5.1. A European Deposit Insurance Scheme

This proposal envisages the establishment of EDIS through an amendment of Regulation (EU) No 806/2014 (SRM Regulation). The rules on the functioning of the SRM would not be modified by this amendment.

5.1.1. Gradual evolution of EDIS

The proposed amendment to the SRM Regulation establishes EDIS in three successive stages (Article 2(2)): a reinsurance scheme, a co-insurance scheme and a full insurance scheme. EDIS would be administered by the Board in all stages jointly with participating DGSs or, where a DGS does not administer itself, by the national designated authority responsible to administer the respective participating DGS (Article 2(2) subparagraph 2). The Deposit Insurance Fund is part of EDIS. It would be filled by contributions owed and paid by banks directly to the Board and calculated and invoiced by participating DGSs.

5.1.2. Scope of EDIS

EDIS applies to all DGSs that are officially recognised in a participating Member State and to all credit institutions affiliated to such schemes. The participating Member States are those whose currency is the euro and those other Member States that have established a close cooperation with the European Central Bank to participate in the SSM (Article 4(1)).

As the cover provided by EDIS is limited to the mandatory functions DGSs have under the Directive, i.e. payouts to depositors and contributions to resolution, EDIS applies to all schemes that may, in principle, encounter payout events or be requested to contribute to a resolution procedure. This includes statutory DGSs, institutional protection schemes (IPSS) and contractual schemes that have been officially recognised by a Member State as DGSs (Article 1(2) of the DGS Directive). Their recognition as DGSs is inseparably linked to their obligations to compensate depositors in case deposits are unavailable and to contribute to resolution procedures.

The rights and obligations that participating DGS have within EDIS are those of the designated authority where the DGS is not administered by a private entity but by the designated authority itself (Article 2(2) subparagraph 2). This takes account of the discretion that Member States have with regard to the introduction, recognition and administration of DGSs at national level (see Article 2(18) of the Directive).

If the close cooperation of a non-Euro Member State is suspended or terminated, the participating DGSs officially recognised in this Member State and the credit institutions affiliated to these DGSs cease to be covered by the SRM Regulation with regard to both the SRM and to EDIS (Article 4). In case of termination only, each of these DGSs is also entitled to a share of the available financial means that the Deposit Insurance Fund disposes of at the time of termination. This entitlement serves to furnish the respective DGS with the funds it needs to meet its funding obligations under the Directive. The share that the respective DGS may claim is subject to a calculation method. With a view to the lower threshold for sufficient funding established by Article 11(5)(a) of the DGS Directive, a DGS cannot claim more from the Deposit Insurance Fund than is necessary for its available financial means to reach two-thirds of its target level. The Board would decide, in agreement with that Member State, on the modalities and conditions for the transfer of funds to the respective DGS within three months.

5.1.3. *General principles governing EDIS*

Article 6 sets out general principles that apply both to the SRM and EDIS. These principles become relevant where the Board or the other public authorities and bodies have discretion in taking a decision or other action.

Neither the Board nor a participating DGS may discriminate against entities (including DGSs and their member banks), deposit holders, investors or other creditors established in the Union on grounds of their nationality or place of business (Article 6(1)). This rule is a fundamental principle of Union law and of particular importance in financial markets where transactions between parties of different nationalities and with different places of business are widespread.

The obligation of the Board and participating DGS must undertake every action, proposal or policy with full regard and duty of care for the unity and integrity of the internal market (Article 6(2)). Removing financial fragmentation is a key driver for the Banking Union and authorities administering EDIS need to thoroughly assess the impact of any discretionary action or decision they consider on light of the functioning of the internal market.

While paragraphs 3 to 5 of Article 6 on the treatment of groups are not applicable in the context of EDIS, Article 6(6) prevents the Board from taking decisions within EDIS that require Member States to provide extraordinary public financial support or that impinge on their budgetary sovereignty and fiscal responsibilities.

In the context of EDIS, the Board may adopt decisions addressed to participating DGSs (Article 74f). Participating DGSs must comply, but Article 6(7) enables them to specify further the measures to be taken, as long as these measures are in compliance with the decision of the Board in question.

5.2. **The different stages of EDIS**

In all three stages, reinsurance, co-insurance and full insurance, EDIS would both provide funding, and cover losses of participating deposit guarantee schemes.

The funding provided by EDIS addresses the initial liquidity need of a DGS to compensate depositors within the payout deadline set by the Directive (normally seven working days), but also to satisfy the request for contribution to a resolution procedure in time. The funding must be reimbursed by the participating DGS to the Board.

EDIS, would, in all stages, also cover losses that the participating DGS ultimately incurs by compensating depositors or contributing to resolution. A participating DGS's ultimate loss is normally smaller than its compensation payments to depositors or its contribution to resolution. After a payout event the DGS may collect on the claims for repayment of (covered) deposits that depositors had against the failed bank and that are transferred to the participating DGS to the extent that it compensated these depositors (Article 9(2), first sentence, of the DGS Directive). Although, if a bank becomes insolvent and therefore these claims are not satisfied in full, any proceeds from the insolvency estate reduce the DGS's ultimate loss.

If a DGS has contributed to resolution its loss can be lower than the amount of that contribution, in particular if the amount that the DGS owes as a contribution is reduced on the basis of a subsequent valuation (Article 109(1) subparagraph 4 in conjunction with Article 75 of the BRRD).

EDIS does not cover losses through additional payments to the participating DGS. Rather, the amount of initial funding that the participating DGS has to repay is reduced by the share of the loss covered by EDIS.

The level of funding provided and the share of loss covered by EDIS increase in each stage.

5.2.1. Reinsurance

In the reinsurance phase, which is proposed to last for three years, EDIS may provide limited funding, and cover a limited share of the loss of a participating DGS that encounters a payout event or has been requested to contribute to resolution (Article 41a).

In the initial stage of reinsurance, coverage is limited to resolution proceedings conducted by the Board (Articles 41a(2) and 79). Purely national resolution proceedings are only covered by co-insurance and full insurance.

5.2.1.1. Provision of funding in the reinsurance stage

Funding in the reinsurance stage would be provided if there is a liquidity shortfall of the participating DGS (Article 41a(2)). The process to establish a liquidity shortfall differs depending on whether (a) the participating DGS encounters a payout event or (b) has to contribute to resolution.

- (a) In a payout event a participating DGS (Article 41b(1)) has a liquidity shortfall if the amount of covered deposits in the failing bank is larger than the total of (a) the amount of available financial means that the participating DGS should hypothetically have, given the funding path established by Article 41j, and (b) the amount of extraordinary (ex-post) contributions the participating DGS can raise within three days from the payout event.

The amount of covered deposits used to calculate the liquidity shortfall only consists of eligible deposits up to the standard coverage level of 100,000 euro or its equivalent in national currency (Article 6(1) of the DGS Directive). Temporary high balances as defined in Article 6(2) of the DGS Directive or any deductions that the DGS may make in accordance with Articles 7 or 8 of the DGS Directive before compensating depositors are normally not yet known at the time of the payout event and are therefore disregarded. The use of the *hypothetical* level of available financial means rather than the actual level serves to weaken potential incentive for a participating DGS to fall short of its obligation to raise *ex-ante* contributions in line with a precise funding path. Finally, extraordinary (ex-post) contributions (Article 10(8) of the Directive), to the extent they can be raised within a very short period, are an additional source of liquidity that could lower the liquidity shortfall of a participating DGS. The three-day period strikes an appropriate balance between the objective to exhaust liquidity resources in the DGS first and the need to compensate depositors within seven working days of the payout event.

- (b) In a resolution case (Article 41b(2)) the liquidity shortfall is the amount that the participating DGS has to contribute to resolution, less the amount of available financial means that the participating DGS should hypothetically have in place given the funding path established by Article 41j. The hypothetical level of available financial means is the only liquidity resource that the participating DGS needs to tap to reduce its liquidity shortfall. In a resolution case there is no need for the participating DGS to raise short-term ex-post contributions since Article 10(8) of the DGS Directive is limited to payout events.

If the participating DGS has a liquidity shortfall, it may request funding from the Deposit Insurance Fund of up to 20% of that shortfall. The remaining 80% of the liquidity shortfall need to be covered by other funding sources. By applying the *hypothetical* level of available financial means to calculate the liquidity shortfall, EDIS allows those participating DGSs who, at the time of the payout event, have

more available financial means than required to obtain funding from EDIS for their (technical) liquidity shortfall and to use their additional funds to cover (part of) the remaining 80% of their liquidity shortfall. The funding provided by EDIS is capped.

5.2.1.2. Loss cover in the reinsurance stage

In its reinsurance stage, in addition to providing funding for a liquidity shortfall, EDIS covers in a second step also 20% of the participating DGS's *excess loss*. The concept of excess loss differs depending on whether the participating DGS encountered a payout event or was requested to contribute to resolution.

In a payout event (Article 41c(1)) the participating DGS incurs an excess loss if the total amount that it repaid to depositors (Article 8 of the Directive) exceeds the sum of (a) the amount it collected in insolvency proceedings on the deposit claims that it obtained (Article 9(2), first sentence, of the DGS Directive) by compensating depositors, (b) the amount of available financial means that the participating DGS should hypothetically have in place given the funding path established by Article 41j, and (c) the amount of extraordinary (*ex-post*) contributions the participating DGS can raise within one year from the payout event.

While the liquidity shortfall is calculated on the basis of the amount of covered deposits (eligible deposits up to 100,000 euro), the calculation of the excess loss, that is done later in the reinsurance procedure, can be based on the actual amounts repaid to depositors. This amount is reduced by the proceeds from the insolvency estate that the participating DGS has obtained. Moreover, the *hypothetical* amount of available financial means, which the participating DGS should have had in place at the time of the payout event, is also deducted. Finally, the participating DGS is assumed to have been able to collect the amount of ex-post contributions that it is allowed by the DGS Directive to raise within one year from the payout event. This is 0.5% of the total covered deposits of its member banks (Article 10(8) of the DGS Directive with the ex-post contributions that were raised within a three-day period after the payout event. The resulting amount is the excess loss of the participating DGS.

In a resolution case (Article 41c(2)), the excess loss is the amount that the participating DGS has to contribute to resolution *less* the sum of:

- (a) the amount it may have been reimbursed after a subsequent valuation found out that its contribution should have been lower than initially requested by the resolution authority⁷, and
- (b) the amount of available financial means that the participating DGS should have in place given the funding path established by Article 41j.

Here again, there is no need for the participating DGS to raise ex-post contributions since Article 10(8) of the Directive is limited to pay-out events.

The loss cover of 20% of the excess loss is applied by reducing the amount of funding that the participating DGS's is obliged to repay to EDIS by the amount of loss cover. The loss cover by EDIS is also capped.

5.2.2. Co-insurance

After the initial three-year reinsurance phase, participating DGSs are co-insured by EDIS for a period of four years. Participating DGSs may request both funding and loss cover from the Deposit Insurance Fund in case they encounter a payout event or have been requested to

⁷ Payment of the difference amount under Article 75 of Directive 2014/59/EU: it is assumed that this rule applies by analogy also in SRM resolution cases under Article 79.

contribute to resolution (Article 41d). EDIS now also provides funding for, and covers losses arising from, contributions to *national* resolution proceedings.

The difference with the reinsurance phase is that funding is provided and loss is covered as from the “first euro” and the share borne by EDIS would gradually increase over the co-insurance period.

EDIS provides funding for a percentage of the participating DGSs liquidity need arising from a payout event or a request to contribute to resolution. It also covers the same percentage of the loss the participating DGS ultimately incurs from these events. The share would be 20% in the first year of the co-insurance phase and increases each subsequent year by 20 percentage points, reaching 80% in the last year of co-insurance.

In case of a payout event the liquidity need is equal to the total amount of covered deposits of the failing bank, i.e. eligible deposits up to 100,000 euro (Article 41f(1)). The loss is determined by subtracting the participating DGSs proceeds from the insolvency estate (Article 41g(1)).

In a resolution case the liquidity need is equal to the amount of contribution requested by the Board and the national resolution authority, respectively (Article 41f(2)). The loss is determined by subtracting the difference the participating DGS may have been paid after a subsequent valuation determined that the initial contribution should have been lower (Article 41g(2)).

There would be no cap on the provision of funding or the loss cover.

5.2.3. Full insurance

After the four-year co-insurance phase, participating DGSs would be fully insured by EDIS. Full insurance provides full funding of the liquidity need and covers all losses arising from a payout event or a request to contribute to resolution. The mechanism is the same as in the co-insurance phase, but with EDIS covering a share of 100%.

5.2.4. Safeguards for coverage by EDIS

The proposal includes safeguards against incorrect or unwarranted access to EDIS by national DGS. They will be excluded if they have failed to comply with obligations under the Regulation or the national law implementing key provisions of the Directive, or if the respective Member State has failed to correctly implement these Articles (Article 41i). They will only be covered by EDIS if their available financial means amount to at least the harmonised funding path set out in the Regulation (Article 41j). This serves to ensure that only participating DGSs that have observed their own obligations which limit the risk at the level of EDIS may benefit from its protection. The Board can decide to disqualify a participating DGS from EDIS coverage by specific voting requirements.

5.3. State aid assessment

While a DGS's compensation payments to depositors are not state aid, its contribution to resolution, although intended to ensure that depositors continue to have access to deposits, results in a benefit for the institution under resolution. The contribution may therefore be considered state aid and may require notification and approval from the Commission. Where the contribution is made from funds at the European level (SRF and Deposit Insurance Fund), the state aid procedure applies by analogy (Article 19).

5.4. Administration of EDIS

EDIS would be administered by the Board together with participating DGS (or the designated authority administering a participating DGS). The procedure can be roughly divided into a phase leading to the provision of funding and a phase after the provision of funding.

5.4.1. Procedure leading to funding

Participating DGSs are required to alert the Board without delay once they become aware of circumstances that are likely to result in a payout event or a request from the resolution authority to contribute to resolution (Article 41i). They must provide the Board with an estimate of the expected liquidity shortfall (reinsurance phase) or liquidity need (co-insurance and full insurance phase). This allows the Board to prepare itself for the immediate provision of funding in case of a payout event or a request to contribute to resolution.

Participating DGSs must notify a payout event or a request to contribute to resolution immediately to the Board (Art 41l). Even if the Board itself requested a contribution to resolution (Article 79), such notification is still formally necessary since the composition of the Board in EDIS is different from its composition in the SRM (see below) and the participating DGS is *not required* to request funding or loss cover from EDIS. Along with the notification, the participating DGS must provide information to the Board to assess whether the relevant conditions are met (Article 41k):

- The amount of covered deposits to calculate the liquidity shortfall or liquidity need.
- The available financial means at the time of the payout event or use in resolution to determine which level of available financial means the participating DGS *should have* at the time of the payout event or use in resolution, given the funding path established by Article 41j.
- The estimate of the extraordinary ex-post contributions it can raise within three days from the payout event or use in resolution.
- Any other material impediment of the participating DGS to meet its liabilities towards depositors or the resolution authority and possible remedies.

The Board would determine within 24 hours whether the conditions for EDIS, as set out in Article 41a (reinsurance), Article 41d (co-insurance) or Article 41h (full insurance), are met (Art 41l(1)). It shall further determine, normally within the same period of time, the amount of funding that it would provide to the participating DGS (Art 41l(2) subparagraph 2).

Where one or more participating DGSs encounter several payout events or uses in resolution (events) simultaneously, the available financial means of the Deposit Insurance Fund may not suffice. In this case the funding that each participating DGS may obtain for each event would be limited by a share of the Deposit Insurance Fund's available financial means, according to a pro-rata calculation (Article 41l(3)).

The Board must immediately inform participating DGSs about whether the conditions for coverage by EDIS are met, and the amount of funding it would provide to the participating DGS. Participating DGSs may, within 24 hours, request a review of the Board's decision(s) on which the Board shall decide within another 24 hours (Article 41m).

Funding would be provided immediately after the Board has determined the amount and will be paid in the form of a cash contribution to the participating DGS (Article 41n). Where the Board increases the amount of funding after having reviewed its initial decision upon request of the participating DGS, that amount shall be due once the Board has adopted its decision on the request for review.

5.4.2. Procedure after funding

After the provision of funding, the Board must determine the excess loss (reinsurance) or loss (co-insurance, full insurance) of the participating DGS, monitor the use of the provided funding for payouts to depositors or for the contribution to resolution, and monitor the participating DGS's efforts to collect on deposit claims from the insolvency estate.

After a payout event, the amount of (excess) loss becomes clear over time, as the participating DGS would be raising ex-post contributions and obtaining proceeds from the insolvency estate from time to time. In case of a contribution to resolution, where no ex-post contributions may be raised by the participating DGS and it has no claims for recourse against third parties, the (excess) loss can be determined already after the participating DGS has received the payment of any difference amount it may be entitled to after a subsequent valuation established that the initial contribution should have been lower. Therefore, after a payout event only, the Board must continuously assess the development of the (excess) loss before determining the final (excess) loss. In parallel, the participating DGS shall repay to the Board the funding it has obtained in portions corresponding to the ex-post contributions or proceeds from the insolvency estate as they become available to the participating DGS (Article 41o).

The difference between the initial funding the participating DGS obtains from the Deposit Insurance Fund and the amount of funding it ultimately has to repay to the Board results in the (excess) loss covered by EDIS.

After a payout event, the Board would also rigorously monitor the payout procedure, and in particular the use of the funding it provided to the participating DGS for that purpose, and how the participating DGS has pursued its deposit claims in the insolvency procedure. The participating DGS is required to provide, at regular intervals established by the Board, accurate, reliable and complete information, in particular on the payout procedure and on the exercise of its subrogated rights in insolvency proceedings. The participating DGS must endeavour to maximise its proceeds from the insolvency estate. Negligent behaviour by the participating DGS may result in claims for damages by the Board, but the Board may, after hearing the participating DGS, also decide to exercise itself all rights arising from deposit claims into which the participating DGS has subrogated. The Board may then collect the proceeds directly for its own account to satisfy its claim for the repayment of the funding provided to the participating DGS (Article 41q)

5.5. Financial provisions for EDIS

The functioning of EDIS requires financial resources to cover administrative expenditures and provide the necessary coverage (funding and loss cover) for participating DGSs.

5.5.1. General budgetary provisions and administrative contributions

The budget currently contains two parts: Part I for the administration of the Board and Part II for the SRF.

Administrative expenditures of EDIS would be covered by existing administrative contributions that are raised into Part I of the Board's budget, taking account of the additional administrative burden caused by EDIS and the fact that the scope *ratione personae* of the SRM and of EDIS are not identical (Article 65(5)).

The Deposit Insurance Fund would be contained in a new Part III of the Board's budget. Its structure of revenues and expenditures (Article 60a) corresponds to that of the Part II for the SRF (Article 60) and is further explained in section 5.5.2 below.

The general budgetary provisions (Articles 57, 58, 61 to 64, and 66) also apply to Part III of the budget.

The Board would be responsible to administer both the SRF and the Deposit Insurance Fund and invest their funds according to the rules of the SRM Regulation and delegated acts adopted by the Commission (Article 75).

5.5.2. *Ex-ante contributions to the Deposit Insurance Fund*

The Deposit Insurance Fund would be filled by ex-ante contributions that are owed and paid by banks directly to the Board and are calculated and invoiced by participating DGSs on behalf of the Board (Article 74a(1)). These ex-ante contributions are an obligation separate from the obligation to pay ex-ante contributions to participating DGS in accordance with Article 10(1), subparagraph 2, of the DGS Directive. However, in order to achieve cost-neutrality for the banking sector, the ex-ante contributions paid to the Deposit Insurance Fund may be compensated at the level of the participating DGS (see below, section 5.5.2.2).⁸

5.5.2.1. Target levels of the Deposit Insurance Fund

The available financial means of the Deposit Insurance Fund must reach two subsequent target levels (Article 74b(1) and (2)): (a) an initial target level of 20% of four ninth of the sum of all national minimum target levels by the end of the three-year reinsurance phase and (b) a final target level equal to the sum of the minimum target levels that participating DGSs must reach under the Directive by the end of the four-year co-insurance period. The minimum target levels would be fully harmonised for all participating DGS. Together the minimum target levels of the Deposit Insurance Fund and the participating DGS would increase in a linear way, by one ninth every year in the period until 2024.

Ex-ante contributions to be paid by banks shall be spread out in time as evenly as possible until the initial or final target level is reached. After the reinsurance period, if the available financial means have been used to provide funding or cover losses and sunk below the initial target level, they must be raised until the target level is reached again.

Each year, the ex-ante contributions owed and to be paid by each bank to the Board are determined in two steps: (a) The Board determines the total amount of ex-ante contributions that it may claim from the member banks of each participating DGS (Article 74d(1)). (b) Each participating DGS, based on the relevant total amount determined by the Board, then calculates the contribution owed and to be paid by each of its member banks (Article 74d(2)) and invoices this amount on behalf of the Board.

During the reinsurance phase, the risk-based ex-ante contribution of each member bank has to pay to the Deposit Insurance Fund would be calculated by the participating DGS in relation to all of its other member banks. After the reinsurance phase, the risk-based ex-ante contributions of each bank would be calculated in relation to all banks within the scope of EDIS. This would be done by the Board, with the assistance of participating DGSs, and on the basis of a set of risk-based methods established by a Commission delegated act.

⁸ A graph comparing the evolution of the funds of EDIS to the evolution of the funds of a participating DGS, in case the Member State and the participating DGS choose to compensate member banks for the ex-ante contributions paid to EDIS, can be found on the Commission's website: http://ec.europa.eu/finance/general-policy/banking-union/european-deposit-insurance-scheme/index_en.htm

The ex-ante contribution invoiced by the participating DGS on behalf of the Board must be paid by the bank directly to the Board, which would credit the amount to the Deposit Insurance Fund (and as revenue in Part III of its budget).

5.5.2.2. Compensation at the level of participating DGSs

This proposal enables participating Member States to achieve cost-neutrality for the member banks of their participating DGSs. They may decide that the creation of a separate obligation by banks to pay ex-ante contributions to the Deposit Insurance Fund justifies compensation at the level of the participating DGS. In taking this decision, Member States need to pay due regard to the principle of proportionality and to consider whether the level of deposit protection that is being built up by the evolving establishment of EDIS justifies a reduction of financial resources for deposit protection at the level of the participating DGS.

Cost-neutrality is provided for in Article 74c(4): (a) The ex-ante contributions banks pay to the Deposit Insurance Fund count towards the target level that the respective participating DGS needs to reach under the Directive; (b) if, by the end of the built-up phase (3 July 2024 or later), a national DGS has complied with the precise funding path (Art. 41j) and its member banks have paid all contributions that were due to the DIF, these contributions constitute the amount of contributions necessary to reach the national target level of 0.8%; and (c) participating Member States may allow their DGSs to consider the contributions that their member banks paid to EDIS when calculating the level of contributions and/or to reimburse their member banks from their available financial means to the extent these exceed the amounts set out in the precise funding path.

Depending on the level of available financial means the participating DGS has already raised, it may either compensate its member banks through lower contributions or through reimbursing contributions it already received from its member banks.

5.5.3. *Extraordinary ex-post contributions*

As from the start of the co-insurance phase, the Board may also claim payment of extraordinary ex-post contributions from the banks affiliated to participating DGSs when the Deposit Insurance Fund's available means are insufficient for funding and loss cover. National DGS would remain responsible for raising ex-post contributions from the national banking sector to replenish their national system following a pay-out event or a resolution contribution.

Ex-post contributions are owed and paid by banks directly to the Board and, during the co-insurance period, calculated and invoiced by the respective participating DGS on behalf of the Board. The Board determines the total amount of ex-post contributions it may claim from the member banks of each participating DGS within the limits established by a Commission delegated act. Participating DGS calculate the ex-post contribution owed by each of their member bank on the basis of the total amount determined by the Board, applying the same risk-based method it applies to calculate the ex-ante contribution under Article 10(1) of the Directive.

After the co-insurance phase, the ex-post contribution owed by each bank is calculated by the Board on the basis of the risk-based methods established by the Commission delegated act that is also applied to calculate the ex-ante contributions after the co-insurance phase. Participating DGSs invoice the ex-post contribution on behalf of the Board.

Both in the co-insurance and full insurance phases the Board may, on its own initiative or upon proposal by the relevant competent authority, defer the payment of the ex-post contribution by an individual bank in full or in part. The deferral must be necessary to protect

the financial position of the bank, may not last longer than six month, but can be renewed on request of the bank.

A Commission delegated act will set the maximum amounts that can be raised by EDIS ex-post, taking into account the national ex-post contributions.

5.5.4. Additional financial sources for the Deposit Insurance Fund

In addition to raising ex-ante and ex-post contributions, the Board may contract additional financial sources for the Deposit Insurance Fund. Gradually replacing the funding at the level of participating DGSs, it may request a loan from deposit-guarantee schemes recognised in non-participating Member States which may decide on such request in accordance with Article 12 of the Directive (Article 74g). To achieve reciprocity the Board may, in turn, also decide to grant loans to deposit-guarantee schemes in non-participating Member States.

The Board may also contract for the Deposit Insurance Fund other alternative funding means from third parties in particular if funds the Board can raise by ex-ante contributions and ex-post contributions are not (immediately) available (Article 74h). Repayable funding means shall be recouped by raising ex-ante and ex-post contributions during the maturity period.

5.5.5. EDIS - Decision-making

EDIS would be administered by the Board, both in its executive and plenary session. The executive session would be composed of the same members for both EDIS- and SRM-related decisions and tasks. The special tasks of EDIS would require a special composition of the plenary session for decisions that relate to EDIS only. Members representing national resolution authorities in the plenary session would be replaced by members representing national designated authorities.

The plenary session would have specific tasks attributed to it.

As some Board decisions are relevant for the Board as a whole or for both the SRM and EDIS, they would be taken in a new joint plenary session with specific representatives and voting procedures.

All other decisions on EDIS would be adopted in the Board's executive session.

5.6. Other rules

Provisions on specific subject-matter that apply to the SRM would also apply to the Board when exercising its functions within EDIS: privileges and immunities, language arrangements, staff and staff exchange, internal committees, appeals panel, actions before the court of justice, liability of the Board, professional secrecy and exchange of information, data protection, access to documents, security rules on sensitive or classified information, court of auditors.

The amendments introducing EDIS would be applied as from the entry into force of the amending Regulation.

Proposal for a
REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
amending Regulation (EU) 806/2014 in order to establish a European Deposit Insurance
Scheme

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Central Bank⁹,

Having regard to the opinion of the European Economic and Social Committee¹⁰,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) Over the past years, the Union has made progress in creating an internal market for banking services. A better integrated internal market for banking services is essential in order to foster economic growth in the Union, to safeguard the stability of the banking system and to protect depositors.
- (2) On 18 October 2012, the European Council concluded that "In the light of the fundamental challenges facing it, the Economic and Monetary Union (EMU) needs to be strengthened to ensure economic and social welfare as well as stability and sustained prosperity" and "that the process towards deeper economic and monetary union should build on the Union institutional and legal framework and be characterised by openness and transparency towards Member States whose currency is not the euro and by respect for the integrity of the internal market". To that end, the Banking Union has been established, underpinned by a comprehensive and detailed single rulebook for financial services for the internal market as a whole. The process towards establishing the Banking Union has been characterised by openness and transparency towards non-participating Member States and by respect for the integrity of the internal market.
- (3) The European Parliament, in its resolution of 20 November 2012 'Towards a genuine Economic and Monetary Union', also stated that breaking the negative feedback loops between sovereigns, banks and the real economy is crucial for a smooth functioning of the EMU, stressed the urgent need for additional and far-reaching measures for the realisation of a fully operational Banking Union, while ensuring the continued proper functioning of the internal market for financial services and the free movement of capital.
- (4) While key steps have been made towards ensuring the efficient functioning of the Banking Union, with the Single Supervisory Mechanism (the 'SSM') established by

⁹ OJ C , , p. .

¹⁰ OJ C , , p. .

Council Regulation (EU) No 1024/2013¹¹ ensuring that the Union's policy relating to the prudential supervision of credit institutions in the euro area Member States and those non euro area Member States who choose to participate in the SSM (the 'participating Member States') is implemented in a coherent and effective manner and with the Single Resolution Mechanism (the 'SRM') established by Regulation (EU) No 806/2014 ensuring a consistent framework for the resolution of banks that are failing or likely to fail in the participating Member States, further steps are still needed to complete the Banking Union.

- (5) In June 2015, the Five Presidents Report on Completing Europe's Economic and Monetary Union pointed out that a single banking system can only be truly single if confidence in the safety of bank deposits is the same irrespective of the Member State in which a bank operates. This requires single bank supervision, single bank resolution and single deposit insurance. The Five Presidents report therefore proposed to complete the Banking Union by establishing a European Deposit Insurance Scheme (EDIS), the third pillar of a fully-fledged Banking Union alongside bank supervision and resolution. Concrete steps in that direction should already be taken as a priority, with a re-insurance system at the European level for the national deposit guarantee schemes as a first step towards a fully mutualised approach. The scope of this reinsurance system should coincide with that of the SSM.
- (6) The recent crisis has shown that the functioning of the internal market may be under threat and that there is an increasing risk of financial fragmentation. The failure of a bank that is relatively large compared to the national banking sector or the concurrent failure of a part of the national banking sector may cause national DGSs to be vulnerable to large local shocks, even with the additional funding mechanisms provided by Directive 2014/49/EU of the European Parliament and of the Council¹². This vulnerability of national DGSs to large local shocks can contribute to adverse feedback between banks and their national sovereign undermining the homogeneity of protection for deposits and contributing to a lack of confidence among depositors and resulting in market instability.
- (7) The absence of a homogenous level of depositor protection can distort competition and create an effective barrier for the freedoms of establishment and free provision of services by credit institutions within the internal market. A common deposit insurance scheme is therefore essential for the completion of the internal market in financial services.
- (8) Although Directive 2014/49/EU significantly improves the capacity of national schemes to compensate depositors, more efficient deposit guarantee arrangements are needed at the level of the Banking Union to ensure sufficient financial means to underpin the confidence of all depositors and thereby safeguard financial stability. EDIS would increase the resilience of the Banking Union against future crises by sharing risk more widely and would offer equal protection for insured depositors, supporting the proper functioning of the internal market.

¹¹ Council Regulation (EU) No 1024/2013 of 15 October 2013 conferring specific tasks on the European Central Bank concerning policies relating to the prudential supervision of credit institutions (OJ L 287, 29.10.2013, p. 63).

¹² Directive 2014/49/EU of the European Parliament and of the Council of 16 April 2014 on deposit guarantee schemes (OJ L 173, 12.6.2014, p. 149).

- (9) Funds used by deposit guarantee schemes to repay depositors for unavailable covered deposits in accordance with Article 8 of Directive 2014/49/EU on deposit guarantee schemes do not constitute State aid or Fund aid. However, where those funds are used in the restructuring of credit institutions and constitute State aid or Fund aid, they must comply with Article 108 of the Treaty on the Functioning of the European Union and, respectively, with Article 19 of Regulation (EU) No 806/2014 of the European Parliament and of the Council¹³, which should be amended for that purpose.
- (10) Despite the further harmonisation introduced by the Directive 2014/49/EU, national DGSs retain certain options and discretions, including with respect to certain essential elements like target levels, risk factors to be applied when assessing credit institutions' contributions, repayment periods or the use of funds. Those differences between national rules may obstruct the free provision of services and create distortions of competition. In a highly integrated banking sector, uniformity of rules and approaches is needed to ensure a consistently robust level of protection of depositors throughout the Union and so guarantee the objective of financial stability.
- (11) The establishment of an EDIS, with decision-making, monitoring and enforcement powers centralised and entrusted to the Single Resolution and Deposit Insurance Board ("the Board"), will be essential in achieving the objective of a harmonised deposit guarantee framework. The uniform application of the deposit guarantee requirements in the participating Member States will be enhanced as a result of it being entrusted to such a central authority. In this way, the operation of EDIS should facilitate, by supporting and providing a framework for the establishment and subsequent implementation of uniform rules on deposit guarantee arrangements, the harmonisation process in the field of financial services.
- (12) Furthermore, EDIS is part of the wider EU rules harmonising prudential supervision and recovery and resolution, which are complementary aspects of the internal market for banking services. Supervision can only be effective and meaningful if an adequate deposit insurance scheme, corresponding to the developments in the field of supervision, is created. EDIS is therefore instrumental to a wider process of harmonisation and its objectives are closely linked to the Union framework on prudential supervision and recovery and resolution whose centralised application are mutually dependant. For instance, adequate coordination at the level of supervision and deposit guarantee is needed in cases where the European Central Bank (ECB) envisages withdrawing an authorisation to a credit institution or where a credit institution does not comply with the obligation to be a member of a DGS. A similar high level of integration is needed between the resolution actions and the deposit insurance tasks attributed to the Board.
- (13) This Regulation applies only in respect of banks whose home supervisor is the ECB or the national competent authority in Member States whose currency is the euro or in Member States whose currency is not the euro which have established a close cooperation in accordance with Article 7 of Regulation (EU) No 1024/2013. The scope of application of this Regulation is linked to the scope of application of Regulation (EU) No 1024/2013. Indeed, bearing in mind the significant level to

¹³ Regulation (EU) No 806/2014 of the European Parliament and of the Council of 15 July 2014 establishing uniform rules and a uniform procedure for the resolution of credit institutions and certain investment firms in the framework of a Single Resolution Mechanism and a Single Resolution Fund and amending Regulation (EU) No 1093/2010 (OJ L 225, 30.7.2014, p. 1).

which the supervisory tasks attributed to the SSM and deposit guarantee actions are interwoven, the establishment of a centralised system of supervision operated under Article 127(6) of the Treaty on the Functioning of the European Union is fundamentally important to the process of harmonisation of deposit guarantee in participating Member States. The fact of being subject to supervision by the SSM constitutes a specific attribute that places the entities falling within the scope of application of Regulation (EU) No 1024/2013 in an objectively and characterised distinct position for deposit guarantee purposes. It is necessary to adopt measures to create a single deposit insurance scheme for all Member States participating in the SSM in order to facilitate the proper and stable functioning of the internal market.

- (14) In order to ensure parallelism with the SSM and the SRM, EDIS should apply to participating Member States. Banks established in the Member States not participating in the SSM should not be subject to EDIS. As long as supervision in a Member State remains outside the SSM, that Member State should remain responsible for ensuring the protection of depositors against the consequences of the insolvency of a credit institution. As Member States join the SSM, they should also automatically become subject to the EDIS. Ultimately, the EDIS could potentially extend to the entire internal market.
- (15) In order to ensure a level playing field within the internal market as a whole, this Regulation is consistent with Directive 2014/49/EU. It complements the rules and principles of that Directive to ensure the proper functioning of EDIS and that appropriate funding is available to the latter. The material law on deposit guarantee to be applied within the EDIS framework will therefore be consistent with the one applicable by the national DGSs or designated authorities of the non-participating Member States, harmonised through the Directive 2014/49/EU.
- (16) In integrated financial markets, any financial support to reimburse depositors enhances the financial stability not only in the participating Member State concerned but also in other Member States, by preventing any spill-over of bank crises into non-participating Member States. The conferral of deposit insurance tasks to the Board should not in any way hamper the functioning of the internal market for financial services. The European Banking Authority (EBA) should therefore maintain its role and retain its existing powers and tasks: it should develop and contribute to the consistent application of the Union legislation applicable to all Member States and enhance convergence of deposit guarantee practices across the Union as a whole.
- (17) EDIS should progressively evolve from a reinsurance scheme into a fully mutualised co-insurance scheme over a number of years. In the context of efforts to deepen the EMU, together with the work on the establishment of bridge-financing arrangements for the Single Resolution Fund (SRF) and on developing a common fiscal backstop, this step is necessary to reduce the bank/sovereign links in individual Member States by means of steps towards risk sharing among all the Member States in the Banking Union, and thereby to reinforce the Banking Union in achieving its key objective. However, such risk sharing implied by steps to reinforce Banking Union must proceed in parallel with risk reducing measures designed to break the bank-sovereign link more directly.
- (18) EDIS should be established in three sequential stages, first a reinsurance scheme that covers a share of the liquidity shortfall and of the excess losses of participating DGSs, followed by a co-insurance scheme that covers a gradually increasing share of the liquidity shortfall and losses of participating DGSs and eventually resulting in a

full insurance scheme that covers all liquidity needs and losses of participating deposit guarantee schemes.

- (19) In the reinsurance stage, and in order to limit the liability for the European Deposit Insurance Fund (“the Deposit Insurance Fund”) and to reduce moral hazard risk at the national level, assistance from the Deposit Insurance Fund can only be requested if the national DGS has raised ex-ante contributions in accordance with a precise funding path, and if it first depletes these funds. However, to the extent that a national DGS has collected funds over and above that which is required by the funding path, it only needs to use up the funds it had to collect to comply with the funding path before being able to receive coverage by EDIS. Therefore, DGSs which have collected more funds than is needed to comply with the funding path should not be in a worse position than those which have collected funds not exceeding the levels set out in the funding path.
- (20) As the Deposit Insurance Fund, in the re-insurance stage, would only provide an additional source of funding and would only weaken the link between banks and their national sovereign, without however ensuring that all depositors in the Banking Union enjoy an equal level of protection, the reinsurance stage should, after three years, gradually progress into a co-insurance scheme and ultimately into a fully mutualised deposit insurance scheme.
- (21) While the reinsurance and coinsurance stages would share many common features, ensuring a smooth gradual evolution, pay-outs under the co-insurance stage would be shared between national DGS and the Deposit Insurance Fund as of the first euro of loss. The relative contribution from the Deposit Insurance Fund would gradually increase to 100 percent, resulting in the full mutualisation of depositor risk across the Banking Union after four years.
- (22) Safeguards should be built into EDIS so as to limit moral hazard risk and to ensure that the coverage by EDIS is only provided where national DGSs act in a prudent manner. Firstly, national DGSs should comply with their obligations under this Regulation, the Directive 2014/49/EU and other relevant EU law, in particular their obligation to build up their funds in accordance with Article 10 of Directive 2014/49/EU as further specified in this Regulation. In order to benefit from coverage by EDIS, participating DGSs need to raise ex-ante contributions in accordance with a precise funding path. This also implies that the possibility of a target level reduction in accordance with Article 10(6) of Directive 2014/49/EU is no longer available if the DGS wants to benefit from EDIS. Secondly, in case of a pay-out event or where its funds are used in resolution, a national DGS should bear a fair share of the loss themselves. It should therefore be required to collect ex-post contributions from its members to replenish its fund and to repay EDIS to the extent that the initially received funding exceeds the share of loss to be borne by EDIS. Thirdly, following a pay-out event, the national DGS should maximise the proceeds from the insolvency estate and repay the Board and the Board should have sufficient powers to safeguard its rights. Fourthly, the Board should have the powers to recover all or part of funding in case of a participating DGS did not comply with key obligations.
- (23) The Deposit Insurance Fund is an essential element without which the progressive establishment of EDIS could not be achieved. Different national systems of funding would not provide for homogenous deposit insurance across the Banking Union. Throughout the three stages, the Deposit Insurance Fund should help ensuring the stabilising role of DGSs, a uniform high level of protection to all depositors in a

harmonised framework throughout the Union and avoiding the creation of obstacles for the exercise of fundamental freedoms or the distortion of competition in the internal market due to different levels of protection at national level.

- (24) The Deposit Insurance Fund should be financed by direct contributions from banks. Decisions taken within the EDIS, requiring the use of the Deposit Insurance Fund or of a national deposit guarantee scheme should not impinge on the fiscal responsibilities of the Member States. In that regard, only extraordinary public financial support should be considered to be an impingement on the budgetary sovereignty and fiscal responsibilities of the Member States.
- (25) This Regulation establishes the modalities for the use of the Deposit Insurance Fund and the general criteria to determine the fixing and calculation of ex ante and ex post contributions and lays down the powers of the Board for using and managing the Deposit Insurance Fund.
- (26) Contributions would be directly levied on banks to finance the Deposit Insurance Fund. The Board would collect the contributions and administer the Deposit Insurance Fund, while national DGSs would continue to collect national contributions and administer national funds. In order to ensure fair and harmonised contributions for participating banks and provide incentives to operate under a model which presents less risk, both contributions to EDIS and to national DGS should be calculated on the basis of covered deposits and a risk-adjustment factor per bank. During the re-insurance period the risk-adjustment factor should consider the degree of risk incurred by a bank relative to all other banks affiliated to the same participating DGS. Once the stage of co-insurance is reached, the risk-adjustment factor should consider the degree of risk incurred by a bank relative to all other banks established in the participating Member States. This would ensure that, overall, EDIS is cost-neutral for banks and national DGSs and avoid any redistribution of contributions during the build-up phase of the Deposit Insurance Fund.
- (27) In principle, contributions should be collected from the industry prior to, and independently of, any deposit insurance action. When prior funding is insufficient to cover the losses or costs incurred by the use of the Deposit Insurance Fund, additional contributions should be collected to bear the additional cost or loss. Moreover, the Deposit Insurance Fund should be able to contract borrowings or other forms of support from credit institutions, financial institutions or other third parties in the event that the ex-ante and ex post contributions are not immediately accessible or do not cover the expenses incurred by the use of the Deposit Insurance Fund in relation to deposit insurance actions.
- (28) In order to reach a critical mass and to avoid pro-cyclical effects which would arise if the Deposit Insurance Fund had to rely solely on ex post contributions in a systemic crisis, it is indispensable that the ex-ante available financial means of the Deposit Insurance Fund amount at least to a certain minimum target level.
- (29) The initial and final target level of the Deposit Insurance Fund should be established as a percentage of the total minimum target levels of participating DGS. It should progressively reach 20% of four ninth of the total minimum target levels by the end of the reinsurance period and the sum of all minimum target levels by the end of the co-insurance period. The possibility to apply for approval to authorise a lower target level in accordance with Article 10(6) of Directive 2014/49/EU should not be considered when setting the initial or final target levels of the Deposit Insurance

Fund. An appropriate time frame should be set to reach the target level for the Deposit Insurance Fund.

- (30) Ensuring effective and sufficient financing of the Deposit Insurance Fund is of paramount importance to the credibility of EDIS. The capacity of the Board to contract alternative funding means for the Deposit Insurance Fund should be enhanced in a manner that optimises the cost of funding and preserves the creditworthiness of the Deposit Insurance Fund. Immediately after the entry into force of this Regulation, the necessary steps should be taken by the Board in cooperation with the participating Member States to develop the appropriate methods and modalities permitting the enhancement of the borrowing capacity of the Deposit Insurance Fund that should be in place by the date of application of this Regulation.
- (31) It is necessary to ensure that the Deposit Insurance Fund is fully available for the purpose of ensuring the guarantee of deposits. Therefore, the Deposit Insurance Fund should primarily be used for the efficient implementation of deposit guarantee requirements and actions. Furthermore, it should be used only in accordance with the applicable deposit guarantee objectives and principles. Under certain conditions, the Deposit Insurance Fund could also provide funding where the available financial means of a DGS are used in resolution in accordance with Article 79 of this Regulation.
- (32) In order to protect the value of the amounts held in the Deposit Insurance Fund, those amounts should be invested in sufficiently safe, diversified and liquid assets.
- (33) Where close cooperation with the ECB of a participating Member State whose currency is not the euro is terminated in accordance with Article 7 of Regulation (EU) No 1024/2013, a fair partition of the cumulated contributions of the participating Member State concerned should be decided taking into account the interests of the participating Member State concerned and the Deposit Insurance Fund.
- (34) In order to guarantee its full autonomy and independence when undertaking deposit insurance actions under this Regulation, the Board should have an autonomous budget with revenues from obligatory contributions from the institutions in the participating Member States. This Regulation should be without prejudice to the ability of Member States to levy fees to cover the administrative expenses of their national DGSs or designated authorities.
- (35) The Board, where all the criteria relating to the use of the Deposit Insurance Fund are met, should provide the relevant funding and loss cover to the national DGS.
- (36) The Board should operate in joint-plenary, plenary and executive sessions. The Board, in its executive session, should prepare all decisions concerning pay-out procedures and, to the fullest extent possible, adopt those decisions. Regarding the use of the Deposit Insurance Fund, it is important that there is no first-mover advantage and that the outflows of the Deposit Insurance Fund are monitored. Once the net accumulated use of the Deposit Insurance Fund in the previous consecutive 12 months reaches the threshold of 25% of the final target level, the plenary session should evaluate the application of the deposit insurance actions or the participations in resolution actions and the use of the Deposit Insurance Fund, and should provide guidance which the executive session should follow in subsequent decisions. Guidance to the executive session should, in particular, focus on ensuring the non-

discriminatory application of deposit insurance actions or participation in resolution actions, on measures to be taken to avoid a depletion of the Deposit Insurance Fund.

- (37) The efficiency and uniformity of deposit insurance actions should be ensured in all of the participating Member States. For that purpose, where a participating DGS has not applied or has not complied with a decision by the Board pursuant to this Regulation or has applied it in a way which poses a threat to any of the deposit insurance scheme's objectives or to the efficient implementation of the deposit insurance action, the Board should be empowered to order any necessary action which significantly addresses the concern or threat to the EDIS objectives. Any action by a participating DGS that would restrain or affect the exercise of powers or functions of the Board should be excluded.
- (38) When making decisions or taking actions, in particular regarding entities established both in participating Member States and in non-participating Member States, possible adverse effects on those Member States, such as threats to the financial stability of their financial markets, and on the entities established in those Member States, should also be taken into consideration.
- (39) The Board, the designated authorities, the competent authorities, including the ECB, and the resolution authorities should, where necessary, conclude a memorandum of understanding describing in general terms how they will cooperate with one another in the performance of their respective tasks under Union law. The memorandum should be reviewed on a regular basis.
- (40) The relevant entities, bodies and authorities involved in the application of this Regulation should cooperate with each other in accordance with the duty of sincere cooperation enshrined in the Treaties.
- (41) The Board and the designated authorities and competent authorities of the non-participating Member States should also conclude memoranda of understanding describing in general terms how they will cooperate with one another in the performance of their tasks under Directive 2014/49/EU. The memoranda of understanding could, inter alia, clarify the consultation relating to decisions of the Board that have effect on branches located in the non-participating Member States, where the credit institution is established in a participating Member State. The memoranda should be reviewed on a regular basis.
- (42) The procedure relating to the adoption of decisions by the Board respects the principle of delegation of powers to agencies as interpreted by the Court of Justice of the European Union.
- (43) This Regulation respects the fundamental rights and observes the rights, freedoms and principles recognised in particular by the Charter, and, in particular, the right to property, the protection of personal data, the freedom to conduct a business, the right to an effective remedy and to a fair trial and the right of defence, and should be implemented in accordance with those rights and principles.
- (44) Since the objectives of this Regulation, namely setting up a more efficient and effective deposit guarantee framework and ensuring the consistent application of deposit guarantee rules, cannot be sufficiently achieved by the Member States but can rather be better achieved at the Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in

that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives.

- (45) The Commission should review the application of this Regulation in order to assess its impact on the internal market and to determine whether any modifications or further developments are needed in order to improve the efficiency and the effectiveness of the EDIS.
- (46) In order for EDIS to function in an effective manner as of [...], the provisions concerning the payment of contributions to the Deposit Insurance Fund, the establishment of all the relevant procedures and any other operational and institutional aspects should apply from XX.
- (47) Regulation (EU) No 806/2014 should be amended to incorporate and respectively take into account the establishment of EDIS,

HAVE ADOPTED THIS REGULATION:

Article 1
Amendments to Regulation (EU) No 806/2014

Regulation (EU) 806/2014 is amended as follows:

1. the title is replaced by the following:
"REGULATION (EU) No 806/2014 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 15 July 2014 on a Single Resolution Mechanism and a European Deposit Insurance Scheme and amending Regulation (EU) No 1093/2010";
2. Article 1 is replaced by the following:

“Article 1
Subject matter

1. This Regulation establishes uniform rules and a uniform procedure for the resolution of the entities referred to in Article 2 that are established in the participating Member States referred to in Article 4.

Those uniform rules and that uniform procedure shall be applied by the Single Resolution Board established in accordance with Article 42 (the ‘Board’), together with the Council and the Commission and the national resolution authorities within the framework of the Single Resolution Mechanism (‘SRM’) established by this Regulation. The SRM shall be supported by a Single Resolution Fund (the ‘SRF’).

The use of the SRF shall be contingent upon the entry into force of an agreement among the participating Member States (‘the Agreement’) on transferring the funds raised at national level towards the SRF as well as on a progressive merger of the different funds raised at national level to be allocated to national compartments of the Fund.

2. In addition, this Regulation establishes a European Deposit Insurance Scheme (‘EDIS’) in three successive stages:
 - a reinsurance scheme that, to a certain extent, provides funding and covers a share of the losses of participating deposit guarantee schemes in accordance with Article 41a;
 - a co-insurance scheme that, to a gradually increasing extent, provides funding and covers losses of participating deposit guarantee schemes in accordance with Article 41c;
 - a full insurance scheme that provides the funding and covers the losses of participating deposit guarantee schemes in accordance with Article 41e.

EDIS shall be administered by the Board in cooperation with participating DGSs and designated authorities in accordance with Part IIa. EDIS shall be supported by a Deposit Insurance Fund (the ‘DIF’)."

3. Article 2 is replaced by the following:

"Article 2

Scope

1. For the purposes of the SRM, this Regulation shall apply to the following entities:

- (a) credit institutions established in a participating Member State;
- (b) parent undertakings, including financial holding companies and mixed financial holding companies, established in a participating Member State, where they are subject to consolidated supervision carried out by the ECB in accordance with Article 4(1)(g) of Regulation (EU) No 1024/2013;
- (c) investment firms and financial institutions established in a participating Member State, where they are covered by the consolidated supervision of the parent undertaking carried out by the ECB in accordance with Article 4(1)(g) of Regulation (EU) No 1024/2013.

2. For the purposes of EDIS, this Regulation shall apply to the following entities:

- (a) participating deposit-guarantee schemes as defined in point (1) of Article 3(1a);
- (b) credit institutions affiliated to participating deposit-guarantee schemes.

Where this Regulation creates rights or obligations for a participating DGS administered by a designated authority as defined in point (18) of Article 2(1) of Directive 2014/49/EU, the rights or obligations are deemed to be those of the designated authority.";

4. Article 3 is amended as follows:

- (a) in paragraph 1, the following points (55), (56) and (57) are added:

"(55) 'participating deposit-guarantee schemes' or 'participating DGSs' means deposit guarantee schemes as defined in point (1) of Article 2(1) of Directive 2014/49/EU which are introduced and officially recognised in a participating Member State;

(56) 'payout event' means the occurrence unavailable deposits as defined in point (8) of Article 2(1) of Directive 2014/49/EU in relation to a credit institution affiliated to a participating DGS;

(57) 'available financial means of the DIF' means cash, deposits and low-risk assets which can be liquidated within a period not exceeding that referred to in Article 8(1) of the Directive 2014/49/EU.";

- (b) paragraph 2 is replaced by the following:

"2. In the absence of a relevant definition in the previous paragraphs, the definitions set out in Article 2 of Directive 2014/49/EU and Article 2 of Directive 2014/59/EU apply.

In the absence of a relevant definition in Article 2 of Directive 2014/49/EU and Article 2 of the Directive 2014/59/EU, the definitions set out in Article 3 of Directive 2013/36/EU apply."

5. in Article 4, paragraphs 2, 3 and 4 are replaced by the following :

"2. Where the close cooperation between a Member State and the ECB is suspended or terminated in accordance with Article 7 of Regulation (EU) No 1024/2013, the entities referred to in Article 2 of this Regulation that are established or recognised in that Member State shall cease to be covered by this Regulation from the date of application of the decision to suspend or terminate close cooperation.

3. In the event that the close cooperation with the ECB of a Member State whose currency is not the euro is terminated in accordance with Article 7 of Regulation (EU) No 1024/2013, the Board shall decide within three months after the date of adoption of the decision to terminate close cooperation, in agreement with that Member State, on the modalities for, and any conditions applicable to:

- (a) the recoupment of contributions that the Member State concerned has transferred to the SRF;
- (b) the transfer of contributions to DGSs officially recognised in the Member State concerned that were paid into the DIF by the credit institutions affiliated to those DGSs.

For the purposes of point (a) of the first subparagraph, recoupments shall include the part of the compartment corresponding to the Member State concerned not subject to mutualisation. If during the transitional period, as laid down in the Agreement, recoupments of the non-mutualised part are not sufficient to permit the funding of the establishment by the Member State concerned of its national financial arrangement in accordance with Directive 2014/59/EU, recoupments shall also include the totality or a part of the part of the compartment corresponding to that Member State subject to mutualisation in accordance with the Agreement or otherwise, after the transitional period, the totality or a part of the contributions transferred by the Member State concerned during the close cooperation, in an amount sufficient to permit the funding of that national financial arrangement.

When assessing the amount of financial means to be recouped from the mutualised part or otherwise, after the transitional period, from the Fund, the following additional criteria shall be taken into account:

- (a) the manner in which termination of close cooperation with the ECB has taken place, whether voluntarily, in accordance with Article 7(6) of Regulation (EU) No 1024/2013, or not;
- (b) the existence of ongoing resolution actions on the date of termination;
- (c) the economic cycle of the Member State concerned by the termination.

Recoupments shall be distributed during a limited period commensurate to the duration of the close cooperation. The relevant Member State's share of the financial means from the SRF used for resolution actions during the period of close cooperation shall be deducted from those recoupments.

For the purposes of point (b) of the first subparagraph, the amount transferred to each DGS officially recognised in the Member State concerned shall be equal to the available financial means of the DIF multiplied by the ratio of (a) to (b):

- (a) the amount of all ex-ante contributions paid to the DIF by credit institutions affiliated to the DGS concerned;
- (b) the amount of all ex-ante contributions paid to the DIF.

The transferred amount shall not exceed the amount that is necessary for the available financial means of the DGS concerned to reach two-thirds of its target level as defined in Article 10(2) first subparagraph of Directive 2014/49/EU.

4. This Regulation shall continue to apply to resolution and deposit insurance proceedings which are ongoing on the date of application of a decision as referred to in paragraph 2.";
6. in Article 5(2), the first subparagraph is replaced by the following:

"The Board, the Council and the Commission and, where relevant, the national resolution authorities and participating DGS, shall take decisions subject to and in compliance with the relevant Union law and in particular any legislative and non-legislative acts, including those referred to in Articles 290 and 291 of the Treaty on the Functioning of the European Union.";
7. Article 6 is amended as follows:
 - (a) paragraphs 1 and 2 are replaced by the following:

"1. No action, proposal or policy of the Board, the Council, the Commission, a national resolution authority or a participating DGS shall discriminate against entities, deposit holders, investors or other creditors established in the Union on grounds of their nationality or place of business.

2. Every action, proposal or policy of the Board, the Council, the Commission, a national resolution authority or a participating DGS in the framework of the SRM or of EDIS shall be undertaken with full regard and duty of care for the unity and integrity of the internal market.";
 - (b) paragraph 7 is replaced by the following:

"7. Where the Board takes a decision that is addressed to a national resolution authority or a participating DGS, the national resolution authority or participating DGS shall have the right to specify further the measures to be taken. Such specifications shall comply with the decision of the Board in question.";
8. the heading of Part II is replaced by the following: "Single Resolution Mechanism";
9. Article 19 is amended as follows:
 - (a) in paragraph 3, the first subparagraph is replaced by the following:

"To the extent that the resolution action as proposed by the Board involves the use of the Funds (SRF or DIF), the Board shall notify the Commission of the proposed use of the Funds. The Board's notification shall include all of the information necessary to enable the Commission to make its assessments pursuant to this paragraph.";
 - (b) in paragraph 3, in the third, the fifth and the seventh subparagraphs the word "Fund" is replaced by "Funds", making such grammar changes as necessary;
 - (c) in paragraph 5, the second subparagraph is replaced by the following:

"The Board shall pay any amounts received under the first subparagraph into the respective Fund (SRF or DIF) and take such amounts into consideration when determining contributions in accordance with Articles 70 and 71, and 74c and 74d.";

- (d) in paragraphs 7 and 10, the word "Fund" is replaced by the word "Funds", making such grammar changes as necessary;
10. Part IIa is inserted as follows:

"PART IIa EUROPEAN DEPOSIT INSURANCE SCHEME (EDIS)

TITLE I: STAGES OF EDIS

Chapter 1

Reinsurance

Article 41a

Partial funding and excess loss cover

1. As from the date of application set out in Article 99(5a), participating DGSs are reinsured by EDIS in accordance with this Chapter for a period of three years ('reinsurance period').
2. In case a participating DGS encounters a payout event or is used in resolution in accordance with Article 79 of this Regulation, it may claim funding from the DIF of up to 20% of its liquidity shortfall as set out in Article 41b.
3. The DIF shall also cover 20% of the excess loss of the participating DGS as set out in Article 41c. The participating DGS shall repay the amount of funding it obtained under paragraph 2 of this Article, less the amount of excess loss cover, in accordance with the procedure set out in Article 41o.
4. Neither the funding nor the excess loss cover shall exceed the lower of 20% of the initial target level of the DIF as set out in Article 74b(1) of this Regulation and 10 times the target level of the participating DGS as defined in the first subparagraph of Article 10(2) of Directive 2014/49/EU.

Article 41b

Liquidity shortfall

1. In case the participating DGS encounters a payout event, its liquidity shortfall shall be calculated as the total amount of covered deposits within the meaning of Article 6(1) of the Directive 2014/49/EU that is held by the credit institution at the time of the payout event less:
 - (a) the amount of available financial means the participating DGS should have at the time of the payout event if it had raised ex-ante contributions in accordance with Article 41j;
 - (b) the amount of extraordinary contributions as defined in Article 10(8) of the Directive 2014/49/EU the participating DGS can raise within three days from the payout event.
2. In case the participating DGS is used in resolution proceedings, its liquidity shortfall shall be the amount determined by the resolution authority in accordance with Article 79 less the amount of available financial means the participating DGS should

have at the time of the determination if it had raised ex-ante contributions in accordance with Article 41j.

Article 41c

Excess loss

1. In case the participating DGS encounters a payout event, its excess loss shall be calculated as the total amount it repaid to depositors in accordance with Article 8 of Directive 2014/49/EU less:
 - (a) the amount the participating DGS recovered from subrogating to the rights of depositors in winding up or reorganisation proceedings under the first sentence of Article 9(2) of Directive 2014/49/EU;
 - (b) the amount of available financial means the participating DGS should have at the time of the payout event if it had raised ex-ante contributions in accordance with Article 41j;
 - (c) the amount of ex-post contributions the participating DGS may raise in accordance with the first sentence of the first subparagraph of Article 10(8) of Directive 2014/49/EU within one calendar year, which shall contain the amount raised in accordance with point (b) of Article 41b(1) of this Regulation.
2. In case the funds of the participating DGS are used in resolution proceedings, its excess loss shall be the amount determined by the resolution authority in accordance with Article 79 less:
 - (a) the amount of any difference the participating DGS was paid in accordance with Article 75 of Directive 2014/59/EU;
 - (b) the amount of available financial means the participating DGS should have at the time of the determination if it had raised ex-ante contributions in accordance with Article 41j.

Chapter 2

Co-insurance

Article 41d

Funding and loss cover

1. As from the end of the re-insurance period, the participating DGS shall be co-insured by EDIS in accordance with this Chapter for a period of four years ('co-insurance period').
2. In case a participating DGS encounters a payout event or is used in resolution in accordance with Article 109 of Directive 2014/59/EU or Article 79 of this Regulation, it may claim funding from the DIF of a share of its liquidity need as defined in Article 41f of this Regulation. The share shall increase in accordance with Article 41e.
3. The DIF shall also cover a share of the loss of the participating DGS as defined by Article 41g. The share shall increase in accordance with Article 41e. The participating DGS shall repay the amount of funding it obtained under paragraph 2,

less the amount of loss cover, in accordance with the procedure set out in Article 41o.

Article 41e
Increase of funding and loss cover

The share of coverage under the second and third paragraph of Article 41d shall increase during the co-insurance period as follows:

- in the first year of the co-insurance period it shall be 20%;
- in the second year of the co-insurance period it shall 40%;
- in the third year of the co-insurance period it shall be 60%;
- in the fourth year of the co-insurance period it shall be 80%.

Article 41f
Liquidity need

1. In case the participating DGS encounters a payout event, its liquidity need shall be deemed to be the total amount of covered deposits within the meaning of Article 6(1) of Directive 2014/49/EU that is held in the credit institution at the time of the payout event.
2. In case the participating DGS is used in resolution proceedings, its liquidity need shall be the amount determined by the resolution authority in accordance with Article 109 of Directive 2014/59/EU or Article 79 of this Regulation.

Article 41g
Loss

1. In case the participating DGS encounters a payout event, its loss shall be the total amount it repaid to depositors in accordance with Article 8 of Directive 2014/49/EU less the amount the participating DGS recovered from subrogating to the rights of depositors in winding up or reorganisation proceedings under the first sentence of Article 9(2) of the Directive 2014/49/EU.
2. In case the participating DGS is used in resolution proceedings, its loss shall be the amount determined by the resolution authority in accordance with Article 109 of Directive 2014/59/EU or Article 79 of this Regulation less the amount of any difference the participating DGS was paid in accordance with Article 75 of Directive 2014/59/EU.

Chapter 3

Full insurance

Article 41h
Funding and loss cover

1. As from the end of the co-insurance period, the participating DGS shall be fully insured by EDIS in accordance with this Chapter.

2. In case a participating DGS encounters a payout event or is used in resolution in accordance with Article 109 of Directive 2014/59/EU or Article 79 of this Regulation, it may claim funding from the DIF for its liquidity need as defined by Article 41f of this Regulation.
3. The DIF shall also cover the loss of the participating DGS as defined by Article 41g. The participating DGS shall repay the amount of funding it obtained under paragraph 2, less the amount of loss cover, in accordance with the procedure set out in Article 41o.

Chapter 4

Common provisions

Article 41i

Disqualification from coverage by EDIS

1. A participating DGS shall not be covered by EDIS in the reinsurance, co-insurance or full insurance phase, if the Commission, acting on its own initiative or upon a request of the Board or a participating Member State, decides and informs the Board accordingly that at least one of the following disqualifying conditions is met:
 - (a) the participating DGS has failed to comply with the obligations under this Regulation or Articles 4, 6, 7 or 10 of Directive 2014/49/EU;
 - (b) the participating DGS, the relevant administrative authority within the meaning of Article 3 of Directive 2014/49/EU, or any other relevant authority of the respective Member State have, in relation to a particular request for coverage by EDIS, acted in a way that runs counter to the principle of sincere cooperation as laid down in Article 4(3) of the Treaty on European Union.
2. When funding has already been obtained by a participating DGS and at least one of the disqualifying conditions referred to in paragraph 1 is met in relation to a payout event or a use in resolution, the Commission may order full or partial repayment of the funding to the DIF.

Article 41j

Funding path to be followed by participating DGSs

1. A participating DGS shall only be reinsured, co-insured or fully insured by EDIS during the year following any of the dates set out below, if, by that date, its available financial means raised by contributions referred to in Article 10(1) of Directive 2014/49/EU amount to at least the following percentages of the total amount of covered deposits of all credit institutions affiliated to the participating DGS:
 - by 3 July 2017: 0.14%;
 - by 3 July 2018: 0.21%;
 - by 3 July 2019: 0.28%;
 - by 3 July 2020: 0.28%;
 - by 3 July 2021: 0.26%;
 - by 3 July 2022: 0.20%;

- by 3 July 2023: 0.11%;
- by 3 July 2024: 0%.

2. The Commission, after consulting the Board, may approve a derogation from the requirements set out in paragraph 1 for duly justified reasons linked to the business cycle in the respective Member State, the impact pro-cyclical contributions may have, or to a payout event which occurred at national level. Those derogations must be temporary and may be subject to the fulfilment of certain conditions.

TITLE II

PROCEDURAL PROVISIONS

Article 41k *Preliminary information*

Where a participating DGS has been informed by the competent authority about, or has otherwise become aware of, circumstances relating to a credit institution affiliated to that participating DGS that are likely to result in a payout event or its use in resolution proceedings, it shall inform the Board about such circumstances without delay if it intends to request coverage by EDIS. In this case the participating DGS shall also provide the Board with an estimate of the expected liquidity shortfall or liquidity need.

Article 41l *Duty to notify*

1. In case a participating DGS encounters a payout event or is used in resolution in accordance with Article 109 of Directive 2014/59/EU or Article 79 of this Regulation, it shall immediately notify the Board and submit all necessary information in order to allow the Board to assess whether the conditions for the provision of funding and loss cover in accordance with Article 41a, 41d and 41h of this Regulation are met.
2. The participating DGS shall inform the Board in particular about:
 - (a) the amount of covered deposits of the credit institution concerned;
 - (b) its available financial means at the time of the payout event or use in resolution;
 - (c) in case of a payout event, an estimate of the extraordinary contributions it can raise within three days from that event;
 - (d) any circumstances which would prevent it from meeting its obligations under national law transposing Directive 2014/49/EU and possible remedies.

Article 41m

Determination of the amount of funding

1. After receiving the notification under Article 41k, the Board shall decide within 24 hours, in its executive session, that the conditions for coverage by EDIS have been met and shall determine the amount of funding that it will provide to the participating DGS.
2. In case the Board was informed in accordance with Article 41k, prior to, or simultaneously with, the notification referred to in paragraph 1, about one or more other likely payout events or uses in resolution, it may extend the period of paragraph 1 up to seven days. If, during this extended period, additional payout events or uses in resolution are notified in accordance with Article 41k and the total funding that could be claimed from the DIF might exceed its available financial means, the funding provided for each notified payout event or use in resolution shall be equal to the available financial means of the DIF multiplied by the ratio of (a) to (b):
 - (a) the amount of funding that the relevant participating DGS could claim from the DIF for the payout event or use in resolution if there were no other notified payout event or use in resolution;
 - (b) the sum of all amounts of funding that each relevant participating DGS could claim from the DIF for each payout event or use in resolution if there were no other notified payout event or use in resolution.
3. The Board shall immediately inform the participating DGS about its decision under paragraphs 1 and 2. The participating DGS may request a review of the Board's decision within 24 hours after it has been informed. It shall state the reasons why it considers an amendment to the Board's decision necessary, in particular with respect to the extent of coverage by EDIS. The Board shall take a decision on the request within another 24 hours.

Article 41n

Provision of funding

The Board shall provide funding under Articles 41a(2), 41d(2) and 41h(2) in accordance with the following provisions:

- (a) the funding shall be provided in the form of a cash contribution to the participating DGS;
- (b) the funds shall be due immediately after the determination of the Board in Article 41m.

Article 41o

Repayment of funding and determination of excess loss and loss

1. The participating DGS shall repay the funding provided by the Board under Article 41n, less the amount of any excess loss cover in case of coverage under Article 41a or any loss cover in case of coverage under Article 41d or Article 41h.
2. Until the termination of the insolvency or resolution procedure, the Board shall determine, on an annual basis, the amount the participating DGS has already recovered from the insolvency procedure or has already been paid in accordance

with Article 75 of Directive 2014/59/EU. The participating DGS shall provide to the Board all information necessary to make this determination. The participating DGS shall pay to the Board a share of that amount which corresponds to the share that is covered by EDIS in accordance with Article 41a, Article 41d or Article 41h.

3. In case of coverage under Article 41a, the participating DGS shall also pay to the Board, by the end of the first calendar year after the funding was provided, an amount equal to the ex-post contributions that the participating DGS may raise within one calendar year in accordance with the first sentence of the first subparagraph of Article 10(8) of Directive 2014/49/EU, less the amount of ex-post contributions it raised in accordance with point (b) of Article 41b(1) of this Regulation.
4. After the termination of the insolvency procedure or resolution procedure of the credit institution concerned, the Board shall without delay determine the excess loss in accordance with Article 41d or the loss in accordance with Article 41h. Where this determination results in a repayment obligation of the participating DGS that differs from the amounts repaid in accordance with the second and third paragraph, the difference shall be settled between the Board and the participating DGS without delay.

Article 41p

Monitoring of payouts to depositors and use in resolution

1. Following the provision of funding in case of a payout event in accordance with Article 41n, the Board shall closely monitor the payout procedure conducted by the participating DGS and in particular its use of the cash contribution.
2. The participating DGS shall provide, at regular intervals established by the Board, accurate, reliable and complete information on the payout procedure, the exercise of the rights it subrogated into, or any other matter that is relevant for the effective implementation of the Board's actions provided for in this Regulation or for the exercise of the powers of the participating DGS in the Directive 2014/49/EU or this Regulation. The participating DGS shall inform the Board, on a daily basis, about the total amount repaid to depositors, the use of the cash contribution, and any difficulties it encountered.

Article 41q

Monitoring of insolvency procedure

1. Following the provision of funding in case of a payout event in accordance with Article 41n of this Regulation, the Board shall monitor the insolvency procedure of the credit institution concerned and in particular the participating DGS's efforts to collect on the deposit claims it subrogated to in accordance with the first sentence of Article 9(2) of Directive 2014/49/EU.
2. The participating DGS shall maximise its proceeds from the insolvency estate and shall be liable towards the Board for any amounts not recovered due to a lack of diligence. The Board may decide, after hearing the participating DGS, to exercise itself all rights arising under the deposit claims mentioned in paragraph 1.";

11. Article 43 is amended as follows:

- (a) in paragraph 1, the full stop at the end of point (c) is replaced by a semicolon and the following point (d) is added:
 "(d) a member appointed by each participating Member State, representing their designated authority.";
 - (b) paragraph 2 is replaced by the following:
 "2. Each member, including the Chair, shall have one vote except where the Board meets in the joint plenary session in accordance with Article 49b in which case the members appointed by a participating Member State under paragraph 1(c) and (d) shall together have one vote.";
 - (c) in paragraph 3, the first subparagraph is replaced by the following:
 "The Commission and the ECB shall each designate a representative entitled to participate in the meetings of executive sessions, plenary sessions and joint plenary sessions as a permanent observer.";
 - (d) paragraphs 4 and 5 are replaced by the following:
 "4. In the event of more than one national resolution authority or respectively more than one national designated authority in a participating Member State, a second representative shall be allowed to participate as observer without voting rights.
 5. The Board's administrative and management structure shall comprise:
 - (a) a joint plenary session which shall perform the tasks referred to in Article 49b;
 - (b) a plenary session of the Board in accordance with Articles 49 and 49a, which shall perform the tasks referred to in Article 50 and respectively Article 50a;
 - (c) an executive session of the Board, which shall perform the tasks referred to in Article 54;
 - (d) a Chair, which shall perform the tasks referred to in Article 56;
 - (e) a Secretariat, which shall provide the necessary administrative and technical support on the performing of all the tasks assigned to the Board.";
12. Article 45 is amended as follows:
- (a) in paragraphs 4 and 5, the words "the resolutions tasks" are replaced by "the resolution and the deposit insurance tasks", making such grammar changes as necessary;
 - (b) in paragraph 7, the words "as a national resolution authority" are replaced by "as a national resolution authority or as a national DGS or designated authority", making such grammar changes as necessary;
13. in Article 46(4), the words "national resolution authorities" are replaced by "national resolution authorities or of national DGS or designated authorities", making such grammar changes as necessary;
14. in Article 47, paragraph 1 is replaced by the following:

"1. When performing the tasks conferred on them by this Regulation, the Board, the national resolution authorities, the national DGS or designated authorities shall act independently and in the general interest.";

15. in Part III, the heading of Title II "Plenary session of the Board" is replaced by "Joint plenary session and plenary sessions of the Board";

16. the following Article 48a is inserted:

"Article 48a

Participation in joint plenary sessions

All members of the Board referred to in Article 43(1) shall participate in its joint plenary sessions.";

17. Article 49 is replaced by the following:

"Article 49

Participation in plenary sessions relating to the Single Resolution Mechanism

The members of the Board referred to in points (a), (b) and (c) of Article 43(1) shall participate in its plenary sessions relating to the Single Resolution Mechanism (SRM plenary session).";

18. the following Articles 49a and 49b are inserted:

"Article 49a

Participation in plenary sessions relating to the European Deposit Insurance Scheme

The members of the Board referred to in points (a), (b) and (d) of Article 43(1) shall participate in its plenary sessions relating to EDIS (EDIS plenary session).

Article 49b

Tasks of the joint plenary session of the Board

1. In its joint plenary session, the Board shall:

- (a) adopt, by 30 November each year, the Board's annual work programme for the following year, based on a draft put forward by the Chair and shall transmit it for information to the European Parliament, the Council, the Commission, and the ECB;
- (b) adopt and monitor the annual budget of the Board in accordance with Article 61(2), and approve the Board's final accounts and give discharge to the Chair in accordance with Article 63(4) and (8);
- (c) decide on the investments in accordance with Article 75;
- (d) adopt the annual activity report on the Board's activities referred to in Article 45, which shall present detailed explanations on the implementation of the budget;
- (e) adopt the financial rules applicable to the Board in accordance with Article 64;
- (f) adopt an anti-fraud strategy, proportionate to fraud risks taking into account the costs and benefits of the measures to be implemented;
- (g) adopt rules for the prevention and management of conflicts of interest in respect of its members;
- (h) adopt its rules of procedure and those of the Board in its plenary and executive sessions under this Regulation;

- (i) in accordance with paragraph 3 of this Article, exercise, with respect to the staff of the Board, the powers conferred by the Staff Regulations on the Appointing Authority and by the Conditions of Employment of Other Servants of the European Union as laid down by Council Regulation (EEC, Euratom, ECSC) No 259/68 ("Conditions of Employment") on the Board Empowered to Conclude a Contract of Employment ("the appointing authority powers");
 - (j) adopt appropriate implementing rules for giving effect to the Staff Regulations and the Conditions of Employment in accordance with Article 110 of the Staff Regulations;
 - (k) appoint an Accounting Officer, subject to the Staff Regulations and the Conditions of Employment, who shall be functionally independent in the performance of his or her duties;
 - (l) ensure adequate follow up to findings and recommendations stemming from the internal or external audit reports and evaluations, as well as from investigations of the European Anti-Fraud Office (OLAF);
 - (m) take all decisions on the establishment of the Board's internal structures and, where necessary, their modification.
2. When taking decisions, the joint plenary session of the Board shall act in accordance with the objectives as specified in Articles 6 and 14.
 3. In its joint plenary session, the Board shall adopt, in accordance with Article 110 of the Staff Regulations, a decision based on Article 2(1) of the Staff Regulations and on Article 6 of the Conditions of Employment, delegating relevant appointing authority powers to the Chair and establishing the conditions under which the delegation of powers can be suspended. The Chair shall be authorised to sub-delegate those powers.

In exceptional circumstances, the Board in its joint plenary session may by way of a decision temporarily suspend the delegation of the appointing authority powers to the Chair and any sub delegation by the latter and exercise them itself or delegate them to one of its members or to a staff member other than the Chair.";

19. Article 50 is replaced by the following:

*"Article 50
Tasks of the Board in its SRM plenary session"*

1. In its SRM plenary session, the Board shall:
 - (a) subject to the procedure referred to in paragraph 2, decide on the use of the Fund, if the support of the Fund in that specific resolution action is required above the threshold of EUR 5 000 000 000 for which the weighting of liquidity support is 0,5;
 - (b) once the net accumulated use of the Fund in the last consecutive 12 months reaches the threshold of EUR 5 000 000 000, evaluate the application of the resolution tools, in particular the use of the Fund, and provide guidance which the executive session shall follow in subsequent resolution decisions, in particular, if appropriate, differentiating between liquidity and other forms of support;
 - (c) decide on the necessity to raise extraordinary ex post contributions in accordance with Article 71, on the voluntary borrowing between financing

arrangements in accordance with Article 72, on alternative financing means in accordance with Articles 73 and 74, and on the mutualisation of national financing arrangements in accordance with Article 78, involving support of the Fund above the threshold referred to in point (c) of this paragraph;

- (d) approve the framework referred to in Article 31(1) to organise the practical arrangements for the cooperation with the national resolution authorities.
2. When taking decisions, the plenary session of the Board shall act in accordance with the objectives as specified in Articles 6 and 14.

For the purposes of point (a) of paragraph 1, the resolution scheme prepared by the executive session is deemed to be adopted unless, within three hours from the submission of the draft by the executive session to the plenary session, at least one member of the plenary session has called a meeting of the plenary session. In the latter case, a decision on the resolution scheme shall be taken by the plenary session.";

20. The following Article 50a is inserted:

"Article 50a

Tasks of the Board in its EDIS plenary session

1. In its EDIS plenary session, the Board shall:
- (a) once the net accumulated use of the DIF in the last consecutive 12 months reaches the threshold of 25% of the final target level, evaluate the application of EDIS, in particular the use of the DIF, and provide guidance which the executive session shall follow in subsequent payout decisions, in particular, if appropriate, differentiating between the provision of funding and loss cover;
 - (b) decide on the extension of the period referred to in Article 41m(1) in accordance with Article 41m(2);
 - (c) decide on the voluntary borrowing between financing arrangements in accordance with Article 74f, on alternative funding means in accordance with Articles 74g;
 - (d) decide, upon referral of the executive session in cases of paragraph 1 or 2 of Article 41i, whether the disqualifying condition laid down in point (b) of Article 41i(1) is met.
2. When taking decisions, the plenary session of the Board shall act in accordance with the objectives specified Article 6.";

21. Article 51 is replaced by the following:

"Article 51

Meetings of the joint plenary and the SRM and EDIS plenary sessions of the Board

1. The Chair shall convene and chair meetings of the joint plenary and the SRM and EDIS plenary sessions of the Board in accordance with point (a) of Article 56(2).
2. The Board, in its joint plenary session, shall hold at least two ordinary meetings per year. In addition, it shall meet on the initiative of the Chair, or at the request of at least one third of its members. The representative of the Commission may request the Chair to convene a meeting of the Board in its joint plenary or respectively SRM or EDIS plenary session. The Chair shall provide reasons in writing if he or she does not convene a meeting in due time.

3. Where relevant, the Board may invite observers in addition to those referred in Article 43(3) to participate in the meetings of its joint plenary or respectively SRM or EDIS plenary session on an ad hoc basis, including a representative of EBA.
 4. The Board shall provide for the secretariat of the joint plenary or plenary session of the Board.";
22. Article 52 is replaced by the following:

"Article 52

General provisions on the decision-making process

1. The Board, in its joint plenary or respectively SRM or EDIS plenary session, shall take its decisions by a simple majority of its members, unless otherwise provided for in this Regulation. Each voting member shall have one vote. In the event of a tie, the Chair shall have a casting vote.
 2. By way of derogation from paragraph 1, decisions referred to in points (a) and (b) of Article 50(1), point (a) of Article 50a(1) as well as on the mutualisation of national financing arrangements in accordance with Article 78, limited to the use of the financial means available in the SRF or respectively in the DIF, shall be taken by a simple majority of the Board members, representing at least 30 % of contributions. Each voting member shall have one vote. In the event of a tie, the Chair shall have a casting vote.
 3. By way of derogation from paragraph 1 of this Article, decisions referred to in Article 50(1) or Article 50a(1), which involve the raising of ex-post contributions in accordance with Article 71 or Article 74d, on voluntary borrowing between financing arrangements in accordance with Article 72 or Article 74f, on alternative financing means in accordance with Article 73, Article 74 or Article 74g, as well as on the mutualisation of national financing arrangements in accordance with Article 78, exceeding the use of the financial means available in the SRF or in the DIF, shall be taken by a majority of two thirds of the Board members, representing at least 50 % of contributions during the transitional period until the SRF is fully mutualised and respectively the DIF has reached its final target level and by a majority of two thirds of the Board members, representing at least 30 % of contributions from then on. Each voting member shall have one vote. In the event of a tie, the Chair shall have a casting vote.
 4. By way of derogation from paragraph 1 of this Article, the decision referred to in point (d) of Article 50a(1) shall be taken by a majority of two thirds of the Board members. Each voting member shall have one vote. In the event of a tie, the Chair shall have a casting vote.
 5. The Board shall adopt and make public its rules of procedure. The rules of procedure shall establish more detailed voting arrangements, in particular the circumstances in which a member may act on behalf of another member and including, where appropriate, the rules governing quorums.";
23. Article 53 is amended as follows:
- (a) in paragraph 1, in the third subparagraph the words "national resolution authorities" are replaced by "national resolution authorities or national designated authorities", making such grammar changes as necessary;
 - (b) in paragraph 2, the reference to "Article 43(1)(c)" is replaced by the following: "Article 43(1)(c) or where relevant Article 43(1)(d)";

- (c) paragraph 3 is replaced by the following:
 "3. When deliberating on an entity referred to in Article 2 or a group of entities established only in one participating Member State or on a deposit insurance action or decision, the relevant member appointed by that Member State under Article 43(1)(c) or 43(1)(d) shall also participate in the deliberations and in the decision-making process, and the rules laid down in Article 55(1) shall apply.";
- (d) paragraph 5 is replaced by the following:
 "5. The members of the Board referred to in Article 43(1)(a) and (b) shall ensure that the resolution and deposit insurance decisions and actions, in particular with regard to the use of the SRF and respectively of the DIF, across the different formations of the executive sessions of the Board, are coherent, appropriate and proportionate.";

24. Article 54 is amended as follows:

- (a) paragraph 1 is replaced by the following:
 "1. The Board, in its executive session, shall:
 - (a) prepare all of the decisions to be adopted by the Board in its joint plenary or its SRM and EDIS plenary sessions, respectively;
 - (b) take all of the decisions to implement this Regulation, unless this Regulation provides otherwise.";
- (b) in paragraph 2, the full stop at the end of point (e) is replaced by a semicolon and the following points are added:
 - "(f) determine the amount of funding in accordance with Article 41l;
 - (g) determine the payout loss and loss cover in accordance with Article 41o;
 - (h) decide to exercise the rights arising under Article 41q.";
- (c) paragraphs 3 and 4 are replaced by the following:
 "3. Where necessary because of urgency, the Board in its executive session may take certain provisional decisions on behalf of the Board in its joint plenary or its SRM and EDIS plenary sessions respectively, in particular on administrative management matters, including budgetary matters.
 4. The Board in its executive session shall keep the Board in its joint plenary or its SRM and EDIS plenary sessions respectively informed of the decisions it takes on resolution or deposit insurance.";

25. Article 56 is amended as follows:

- (a) in paragraph 1:
 - (i) point (a) is replaced by the following:
 "(a) preparing the work of the Board, in its joint plenary, plenary and executive sessions, and convening and chairing its meetings;"
 - (ii) in point (g), the words "on the resolution activities" are replaced by "on the resolution and on the deposit insurance activities", making such grammar changes as necessary;

- (b) in paragraph 4, in the first sentence the words "bank resolution" are replaced by "bank resolution and deposit guarantee", making such grammar changes as necessary;
- 26. in Article 58, paragraph 3 is replaced by the following:
 "3. The budget shall comprise three parts: Part I for the administration of the Board, Part II for the SRF and Part III for the DIF.".
- 27. in Article 59, paragraph 3 is replaced by the following:
 "3. This Article is without prejudice to the right of the national resolution authorities, participating DGS and designated authorities to levy fees in accordance with national law, in respect of their administrative expenditures of the types referred to in paragraphs 1 and 2, including expenditures for cooperating with and assisting the Board.";
- 28. the following Article 60a is inserted:

"Article 60a

Part III of the Budget

- 1. The revenues of Part III of the budget shall consist, in particular, of the following:
 - (a) contributions paid by institutions affiliated to participating DGSs in accordance with Article 74c and Article 74d;
 - (b) loans received from deposit guarantee schemes in non-participating Member States in accordance with Article 74f;
 - (c) loans received from financial institutions or other third parties in accordance with Article 74g;
 - (d) returns on the investments of the amounts held in the DIF in accordance with Article 75;
 - (e) funding repaid by participating DGSs in accordance with Article 41o.
- 2. The expenditure of Part III of the budget shall consist of the following:
 - (a) funding provided to participating DGSs for the purposes of Article 41a, Article 41d or Article 41h;
 - (b) investments in accordance with Article 75;
 - (c) interest paid on loans received from other deposit guarantee financing arrangements in non-participating Member States in accordance with Article 74f;
 - (d) interest paid on loans received from financial institutions or other third parties in accordance with Article 74g.";
- 29. in Article 61(2), the words "in its plenary session" are replaced by the words "in its joint plenary session";
- 30. in Article 63(8), the words "in its plenary session" are replaced by the words "in its joint plenary session";
- 31. Article 65 is amended as follows:
 - (a) paragraph 1 is replaced by the following:

"1. Entities referred to in Article 2(1) and respectively point (b) of Article 2(2) shall contribute to Part I of the budget of the Board in accordance with this Regulation and the delegated acts on contributions adopted pursuant to paragraph 5 of this Article.";

(b) in paragraph 5, point (a) is replaced by the following:

"(a) determine the type of contributions, the matters for which contributions are due, taking into account the different tasks of the Board under this Regulation for the purposes of SRM and EDIS, the manner in which the amount of the contributions is calculated, and the way in which they are to be paid;"

32. in Title V of Part III, the heading of Chapter 2 is replaced by "The Single Resolution Fund and the Deposit Insurance Fund";

33. in Chapter 2 of Title V of Part III, the heading of Section 1 is replaced by "Constitution of the Single Resolution Fund";

34. in Chapter 2 of Title V of Part III, the following section is inserted:

"SECTION 1A CONSTITUTION OF THE DEPOSIT INSURANCE FUND

Article 74a General Provisions

1. The DIF is hereby established. It shall be filled by contributions owed to the Board by credit institutions affiliated to participating DGSs. The contributions shall be calculated and invoiced, on behalf of the Board, by participating DGSs.
2. The Board shall use the DIF only in order to provide the funding to, and cover the losses of, participating DGS in the different stages set out in Article 1(2) and in accordance with the objectives and the principles governing EDIS referred to in Article 6. Under no circumstances shall the Union budget or the national budgets be held liable for expenses or losses of the Fund.
3. The owner of the DIF shall be the Board. The Board's activities under this Regulation may under no circumstances engage the budgetary liability of the Member States.

Article 74b Target levels of the Deposit Insurance Fund

1. By the end of the reinsurance period the available financial means of the DIF shall reach an initial target level of 20% of four ninth of the sum of the minimum target levels that participating DGSs shall reach in accordance with the first subparagraph of Article 10(2) of Directive 2014/49/EU.
2. By the end of the co-insurance period the available financial means of the DIF shall reach the sum of the minimum target levels that participating DGSs shall reach under the first subparagraph of Article 10(2) of Directive 2014/49/EU.
3. During the reinsurance and co-insurance periods contributions to the DIF calculated in accordance with Article 74c shall be spread out in time as evenly as possible until the respective target level is reached.

4. After the target level specified in paragraph 2 has been reached for the first time and where the available financial means have subsequently been reduced to less than two-thirds of the target level, the contributions calculated in accordance with Article 74c shall be set at a level allowing to reach the target level within six years.
5. The Commission shall be empowered to adopt delegated acts in accordance with Article 93 to specify the following:
 - (a) criteria for the spreading out in time of the contributions to the DIF calculated under paragraph 2;
 - (b) criteria for establishing the annual contributions provided for in paragraph 4.

Article 74c
Ex-ante contributions

1. Each year during the reinsurance and co-insurance period, the Board shall, after consulting the ECB and the national competent authority and in close cooperation with the participating DGSs and designated authorities, determine for each participating DGS the total amount of ex-ante contributions that it may claim from the credit institutions affiliated to the respective participating DGS in order to reach the target levels provided for in Article 74b. The total amount of contributions shall not exceed the target levels provided for in Article 74b (1) and (2).

2. During the reinsurance period each participating DGS shall calculate, on the basis of the total amount determined by the Board under paragraph 1, the contribution of each credit institution affiliated to it. It shall apply the risk-based method established by the delegated act according to the second subparagraph of paragraph 5.

After the reinsurance period, the Board itself shall calculate the contribution of each credit institution affiliated to a participating DGS. The Board shall apply the risk-based method established by the delegated act according to the third subparagraph of paragraph 5.

In all stages of EDIS the participating DGS shall invoice, on behalf of the Board, the contribution of each credit institution on an annual basis. Credit institutions shall pay the invoiced amount directly to the Board. The contributions shall become due on 31 May of each year.

3. The duly received contributions of each credit institution referred to in Article 2(2) shall not be reimbursed to those entities.
4. The contributions that credit institutions affiliated to a participating DGS pay into the DIF in accordance with this Article shall count towards the minimum target level that the participating DGS shall reach in accordance with the first subparagraph of Article 10(2) of Directive 2014/49/EU. If the participating DGS, by 3 July 2024 or any later date, has followed the funding path set out in Article 41j and credit institutions affiliated to it paid to the DIF all ex-ante contributions that, until 3 July 2024, had to be paid to the DIF, these contributions shall constitute the full contribution owed in order to reach the target level in accordance with the first subparagraph of Article 10(2) of Directive 2014/49/EU.

Member States may provide that a participating DGS may consider the contributions that credit institutions affiliated to it paid into the DIF when setting the level of their ex-ante contributions or may reimburse these credit institutions

from its available financial means to the extent they exceed the amounts set out in Article 41j on the relevant date.

5. The Commission shall be empowered to adopt delegated acts in accordance with Article 93 in order to specify a risk-based method for the calculation of contributions in accordance with paragraph 2 of this Article.

It shall adopt one delegated act specifying the method for the calculation of contributions payable to participating DGSs and, for the reinsurance period only, to the DIF. In this delegated act the calculation shall be based on the amount of covered deposits and the degree of risk incurred by each credit institution relative to all other credit institutions affiliated to the same participating DGS.

It shall adopt a second delegated act specifying the method for the calculation of the contributions payable to the DIF as from the co-insurance period. In this second delegated act the calculation shall be based on the amount of covered deposits and the degree of risk incurred by each credit institution relative to all other credit institutions referred to in point (b) of Article 2(2).

Both delegated acts shall include a calculation formula, specific indicators, risk classes for members, thresholds for risk weights assigned to specific risk classes, and other necessary elements. The degree of risk shall be assessed on the basis of the following criteria:

- (a) the level of loss absorbing capacity of the institution;
- (b) the institution's ability to meet its short- and long-term obligations;
- (c) the stability and variety of the institutions sources of funding and its unencumbered highly liquid assets';
- (d) the quality of the institution's assets;
- (e) the institution's business model and management;
- (f) the degree to which the institution's assets are encumbered.

Article 74d

Extraordinary ex-post contributions

1. Where, after the reinsurance period, the available financial means are not sufficient to cover the losses, costs or other expenses incurred by the DIF following a payout event, extraordinary *ex-post* contributions from the credit institutions affiliated to participating DGSs shall be raised in order to cover the additional amounts. Notwithstanding paragraphs 2 and 3, the amount of *ex-post* contributions to be raised shall be equal to the shortfall of available financial means but shall not exceed the maximum share of total covered deposits of all credit institutions within the scope of EDIS laid down by delegated act of the Commission in accordance with paragraph 5.
2. The Board shall itself calculate the contribution of each credit-institution affiliated to each participating DGS. It shall apply the risk-based method specified in the delegated act adopted by the Commission in accordance with the third subparagraph of Article 74c(5).

The third subparagraph of Article 74c(2) shall apply by analogy.

3. The Board shall, on its own initiative after consulting the relevant competent authority, or upon proposal by the relevant competent authority, defer, in whole or in part, in accordance with the delegated acts referred to in paragraph 4, an institution's payment of extraordinary *ex-post* contributions if it is necessary to protect its financial position. Such a deferral shall not be granted for a period of longer than six months but may be renewed on request of the institution. The contributions deferred pursuant to this paragraph shall be made later at a point in time when the payment no longer jeopardises the institution's financial position.
4. The Commission shall be empowered to adopt delegated acts in accordance with Article 93 to specify the annual limits referred to in paragraph 1 and the circumstances and conditions under which the payment of *ex-post* contributions by an entity referred to in point (b) of Article 2(2) may be partially or entirely deferred pursuant to paragraph 3 of this Article.

Article 74e

Implementation of decisions under this Regulation

1. The participating DGS shall take the necessary action to implement decisions referred to in this Regulation.

Subject to this Regulation, the participating DGS shall exercise its powers under national law transposing the Directive 2014/49/EU and in accordance with the conditions laid down in national law. The participating DGS shall fully inform the Board of the exercise of those powers.

2. Where a participating DGS has not applied or has not complied with a decision by the Board pursuant to this Regulation or has applied it in a way which poses a threat to the efficient implementation of EDIS and to the objectives of this Regulation, the Board may order the participating DGS to adopt any necessary action to comply with the decision in question.
3. Where a participating DGS addressed a decision to a credit institution affiliated to it, including the invoicing of contributions, and the credit institution has intentionally or negligently not complied with that decision, the Board shall take a decision imposing a fine on the credit institution in accordance with Article 38.

Article 74f

Voluntary lending to and borrowing from non-participating DGS

1. The Board shall decide to make a request to borrow for the DIF from deposit guarantee schemes within non-participating Member States in the event that:
 - (a) the amounts raised under Article 74c are not sufficient to cover the losses, costs or other expenses incurred by the use of the DIF in relation to resolution actions;
 - (b) the extraordinary *ex-post* contributions provided for in Article 74d are not immediately accessible;
 - (c) the alternative funding means provided for in Article 74g are not immediately accessible on reasonable terms.
2. Those deposit guarantee schemes shall decide on such a request in accordance with Article 12 of Directive 2014/49/EU.

3. The Board may decide to lend to other deposit guarantee schemes within non-participating Member States upon request. Article 12 of Directive 2014/49/EU shall apply by analogy with respect to the borrowing conditions.

Article 74g
Alternative funding means

1. The Board may contract for the DIF borrowings or other forms of support from institutions, financial institutions or other third parties, which offer better financial terms, at the most appropriate time so as to optimise the cost of funding and preserve its reputation. The proceeds of such borrowings shall be used exclusively to meet payment obligations towards participating DGSs, in the event that the amounts raised in accordance with Articles 74c and 74d are not immediately accessible or do not cover the amounts claimed from the DIF in relation to payout events.
 2. The borrowing or other forms of support referred to in paragraph 1 shall be fully recouped in accordance with Articles 74c and 74d.
 3. Any expenses incurred by the use of the borrowings specified in paragraph 1 shall be borne by Part III of the budget of the Board and not by the Union budget or the participating Member States.
 4. The Board may decide to invest proceeds from borrowings in accordance with Article 75 in order to protect their real value.";
35. in Chapter 2 of Title V of Part III, the heading of Section 2 is replaced by "Administration of the SRF and DIF".
36. Article 75 is replaced by the following:

"Article 75
Investments

1. The Board shall administer the SRF and the DIF in accordance with this Regulation and delegated acts adopted under paragraph 4.
 2. The amounts received from an institution under resolution or a bridge institution, the interests and other earnings on investments and any other earnings shall benefit only the SRF and the DIF.
 3. The Board shall have a prudent and safe investment strategy that is provided for in the delegated acts adopted pursuant to paragraph 4 of this Article, and shall invest the amounts held in the SRF and the DIF in obligations of the Member States or intergovernmental organisations, or in highly liquid assets of high creditworthiness, taking into account the delegated act referred to in Article 460 of Regulation (EU) No 575/2013 as well as other relevant provisions of that Regulation. Investments shall be sufficiently sectorally, geographically and proportionally diversified. The return on those investments shall benefit the SRF and the DIF respectively.
 4. The Commission shall be empowered to adopt delegated acts on the detailed rules for the administration of the SRF and the DIF and general principles and criteria for their investment strategy, in accordance with the procedure laid down in Article 93.";
37. the following Article 77a is inserted:

*"Article 77a
Use of the DIF*

1. During the reinsurance period the Board shall use the DIF to provide the funding in accordance with Article 41a(2) and cover a share of the excess loss in accordance with Article 41a(3).
 2. During and after the co-insurance period the Board shall use the DIF to provide the funding in accordance with Article 41d(2) and Article 41h(2), respectively, and cover the loss in accordance with Article 41d(3) and 41h(3), respectively.
 3. The use of the DIF with respect to a credit institution affiliated to a participating DGS shall be contingent upon compliance by this credit institution with the obligations incumbent on it as a member of the participating DGS set out in this Regulation and in Directive 2014/49/EU.";
38. in Title VI of Part III, in Article 81(4), Article 83(2) and (3), Article 87(4), Article 88(2) and (6), the words "national resolution authority" are replaced by "national resolution authority, participating DGS or designated authorities where relevant" and the words "national resolution authorities" are replaced by "national resolution authorities, participating DGS or designated authorities where relevant";
39. Article 93 is amended as follows:
- (a) paragraph 2 is replaced by the following:

"2. The delegation of power referred to in Article 19(8), Article 65(5), Article 69(5), Article 71(3), Article 74b (5), Article 74c (5), Article 74d(4) and Article 75(4) shall be conferred for an indeterminate period of time from the relevant dates referred to in Article 99.";
 - (b) paragraph 4 is replaced by the following:

"4. The delegation of power referred to in Article 19(8), Article 65(5), Article 69(5), Article 71(3), Article 74b (5), Article 74c (5), Article 74d(4) and Article 75(4) may be revoked at any time by the European Parliament or by the Council. A decision of revocation shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.";
 - (c) paragraph 6 is replaced by the following:

"6. A delegated act adopted pursuant to Article 19(8), Article 65(5), Article 69(5), Article 71(3), Article 74b (5), Article 74c (5), Article 74d(4) and Article 75(4) shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of three months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by three months at the initiative of the European Parliament or the Council.";
40. in Article 99, the following paragraph 5a is inserted:

"5a. By way of derogation from paragraph 2, Article 1(2), Part IIa and Part III, Title V Chapter 2 Section 1a shall apply from [*OP insert date of entry into force of this Regulation*]";

41. throughout Regulation (EU) No 806/2014, the word "the Fund" is replaced with "the SRF".

Article 2

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Strasbourg,

For the European Parliament
The President

For the Council
The President

LEGISLATIVE FINANCIAL STATEMENT

1. FRAMEWORK OF THE PROPOSAL/INITIATIVE

- 1.1. Title of the proposal/initiative
- 1.2. Policy area(s) concerned in the ABM/ABB structure
- 1.3. Nature of the proposal/initiative
- 1.4. Objective(s)
- 1.5. Grounds for the proposal/initiative
- 1.6. Duration and financial impact
- 1.7. Management mode(s) planned

2. MANAGEMENT MEASURES

- 2.1. Monitoring and reporting rules
- 2.2. Management and control system
- 2.3. Measures to prevent fraud and irregularities

3. ESTIMATED FINANCIAL IMPACT OF THE PROPOSAL/INITIATIVE

- 3.1. Heading(s) of the multiannual financial framework and expenditure budget line(s) affected
- 3.2. Estimated impact on expenditure
 - 3.2.1. *Summary of estimated impact on expenditure*
 - 3.2.2. *Estimated impact on operational appropriations*
 - 3.2.3. *Estimated impact on appropriations of an administrative nature*
 - 3.2.4. *Compatibility with the current multiannual financial framework*
 - 3.2.5. *Third-party contributions*
- 3.3. Estimated impact on revenue

LEGISLATIVE FINANCIAL STATEMENT

6. FRAMEWORK OF THE PROPOSAL/INITIATIVE

6.1. Title of the proposal/initiative

Regulation of the European Parliament and of the Council amending Regulation (EU) 806/2014 in order to establish a European Deposit Insurance Scheme

6.2. Policy area(s) concerned in the ABM/ABB structure¹⁴

Financial services and capital markets.

Policy strategy and coordination for Financial Stability, Financial Services and Capital Markets Union.

Management of the Directorate-General for Financial Stability, Financial Services and Capital Markets Union.

6.3. Nature of the proposal/initiative

☒ The proposal/initiative relates to **a new action**

☐ The proposal/initiative relates to **a new action following a pilot project/preparatory action**¹⁵

☐ The proposal/initiative relates to **the extension of an existing action**

☐ The proposal/initiative relates to **an action redirected towards a new action**

6.4. Objective(s)

6.4.1. *The Commission's multiannual strategic objective(s) targeted by the proposal/initiative*

1) Maintaining stability of the financial system by strengthening depositors' confidence in the banking system across the Union.

2) Reducing barriers to free movement of capital and creating a level-playing field for credit institutions across the Union.

3) Protecting public finances by weakening its interaction with the financial situation of credit institutions.

6.4.2. *Specific objective(s) and ABM/ABB activity(ies) concerned*

Specific objective No

In the light of the general objectives above, the following specific objectives are sought:

1) Completing Banking Union by launching a European Deposit Insurance Scheme (EDIS) that complements the Single Supervisory Mechanism and the Single Resolution Mechanism.

2) Creating a Deposit Insurance Fund (DIF) within the Budget of the Single Resolution Board (SRB or Board) which helps absorb geographically asymmetric shocks in the Union's internal market for financial services, improving protection of depositors across the Union.

¹⁴ ABM: activity-based management; ABB: activity-based budgeting.

¹⁵ As referred to in Article 54(2)(a) or (b) of the Financial Regulation.

3) Protecting public finances by levying costs of deposit insurance on all banks within the Union.

The following sub-objectives are sought:

a) In a first stage (reinsurance period), the DIF, to a certain extent, provides funding and covers the share of losses of a participating deposit-guarantee scheme (DGS) in case the financial means necessary for the participating DGS to comply with its payment obligations under Directive 2014/49/EU towards depositors or towards a resolution authority exceed the financial resources the DGS.

b) In a second stage (co-insurance period), the DIF, to a gradually increasing extent, provides funding and covers losses of a participating deposit guarantee scheme in the situation described above (under a).

c) In a third stage (full insurance), the DIF provides all funding and covers all losses of a participating deposit guarantee scheme in the situation described above (under a).

ABM/ABB activity(ies) concerned

Financial services and capital markets.

Policy strategy and coordination for Financial Stability, Financial Services and Capital Markets Union.

Management of the Directorate-General for Financial Stability, Financial Services and Capital Markets Union.

6.4.3. *Expected result(s) and impact*

- 1) The proposal will significantly weaken the interaction between public finances of a participating Member State and the credit institutions established therein.
- 2) The proposal will reduce fragmentation of the internal market for financial services and level the playing-field for all credit institutions established in participating Member States.
- 3) The proposal will significantly increase confidence in the protection of deposits in all participating Member States.

6.4.4. *Indicators of results and impact*

- 1) Reduced shifting of deposits from credit institutions established in participating Member States that are perceived to have impaired public finances to credit institutions established in participating Member States that are perceived to have unimpaired public finances.
- 2) Reduced deposit interest rate spread differences between credit institutions established in different participating Member States.
- 3) Increased number and size of credit institutions for which a participating DGS, in case the deposits held in that credit institution become unavailable or the credit institution becomes subject to resolution proceedings, is able to satisfy its obligation towards depositors or the resolution authority.

6.5. **Grounds for the proposal/initiative**

6.5.1. *Requirement(s) to be met in the short or long term*

In 2012 the Commission called for a Banking Union that would place the banking sector on a more sound footing and restore confidence in the Euro as part of a longer term vision for economic and fiscal integration. The Banking Union should be implemented by shifting supervision to the European level, establishing an integrated bank crisis management and, equally important, a common system for deposit protection. While the first two steps have been achieved by the Single Supervisory Mechanism and the Single Resolution Mechanism, a common system for deposit protection has not yet been established.

The Five Presidents' Report and the Commission's follow-up Communication set out a clear plan for deepening Economic and Monetary Union (EMU), including steps to further limit risks to financial stability. Completing the Banking Union is an indispensable step towards a full and deep EMU. For the single currency, a unified and fully integrated financial system is key for effective monetary policy transmission, adequate risk diversification across Member States and general confidence in the euro area banking system.

In particular, the Five Presidents Report proposes to establish, in the long term, a European Deposit Insurance Scheme (EDIS), as the third pillar of a fully-fledged Banking Union alongside bank supervision, which lays with the Single Supervisory Mechanism (SSM), and with bank resolution, which has been entrusted to the Single Resolution Board (SRB).

6.5.2. *Added value of EU involvement*

The Five Presidents' Report signals that, as the current set-up with national deposit guarantee schemes remains vulnerable to large local shocks (in particular when the

sovereign and the national banking sector are perceived to be in a fragile situation), common deposit insurance would increase the resilience against future crises. A common scheme is also more likely to be fiscally neutral over time than national deposit guarantee schemes because risks are spread more widely and because private contributions are raised over a much larger pool of financial institutions. According to the Five President's Report, interim steps should already be taken until mid-2017, as part of Stage 1 of completing Europe's Economic and Monetary Union, for example in the form of a reinsurance mechanism. EDIS would be privately funded through ex ante risk-based fees paid by all the participating banks in the Member States and devised in a way that would prevent moral hazard.

6.5.3. *Lessons learned from similar experiences in the past*

There is little publically available information on the staff levels of national DGS. Also, national DGS are organised in different forms and receive to different degrees staff assistance from or share services with e.g. banking associations or supervisory authorities. A survey by the European Forum of Deposit Insurers indicates that levels of direct staff (i.e. without support functions) ranges between 10 and 40 FTE.

6.5.4. *Compatibility and possible synergy with other appropriate instruments*

Following the establishment of the Single Supervisory Mechanism (SSM) by Council Regulation (EU) No 1024/2013 and of the Single resolution Mechanism (SRM) by Regulation (EU) No 806/2014, there is a misalignment between the Union supervision and resolution of banks in the participating Member States, on the one hand, and the effectiveness and credibility of national DGS in case of failure of those same banks pursuant to Directive 2014/49/EU, on the other hand. The establishment of EDIS is an essential step towards the completion of the third pillar of a fully-fledged Banking Union alongside bank supervision and resolution.

This proposed Regulation builds on the existing framework of national deposit guarantee schemes as governed by Directive 2014/49/EU (DGS Directive). The establishment of EDIS is an integral part of the process of further harmonisation of deposit guarantees under Directive 2014/49/EU. The uniform application of the deposit guarantee framework in the Member States participating to EDIS will be enhanced as a result of this proposed Regulation by attributing decision-making, monitoring and enforcement powers relating to EDIS to the Single Resolution Board ("the Board"). This approach will ensure equal protection for covered depositors and support the proper functioning of the Internal Market. To ensure that all participating Member States have full confidence in the quality and impartiality of the protection of deposits by EDIS and to enhance the effectiveness of the deposit guarantee, the proposed Regulation sets up a Deposit Insurance Fund (DIF). The Single Resolution Board would collect the contributions directly from institutions and manage and administer the DIF.

6.6. Duration and financial impact

- ☐ Proposal/initiative of limited **duration**
 - ☐ Proposal/initiative in effect from [DD/MM]YYYY to [DD/MM]YYYY
 - ☐ Financial impact from YYYY to YYYY
- ☒ Proposal/initiative of **unlimited duration**
 - Implementation with a start-up period from 2017 to 2024,
 - followed by full-scale operation.

6.7. Management mode(s) planned¹⁶

- ☐ **Direct management** by the Commission
 - ☐ by its departments, including by its staff in the Union delegations;
 - ☐ by the executive agencies
- ☐ **Shared management** with the Member States
- ☐ **Indirect management** by entrusting budget implementation tasks to:
 - ☐ third countries or the bodies they have designated;
 - ☐ international organisations and their agencies (to be specified);
 - ☐ the EIB and the European Investment Fund;
 - ☒ bodies referred to in Articles 208 and 209 of the Financial Regulation;
 - ☐ public law bodies;
 - ☐ bodies governed by private law with a public service mission to the extent that they provide adequate financial guarantees;
 - ☐ bodies governed by the private law of a Member State that are entrusted with the implementation of a public-private partnership and that provide adequate financial guarantees;
 - ☐ persons entrusted with the implementation of specific actions in the CFSP pursuant to Title V of the TEU, and identified in the relevant basic act.

¹⁶

Details of management modes and references to the Financial Regulation may be found on the BudgWeb site: http://www.cc.cec/budg/man/budgmanag/budgmanag_en.html

7. MANAGEMENT MEASURES

7.1. Monitoring and reporting rules

Article 45 of the Regulation requires the Board to be accountable to the European Parliament, the Council and the Commission for the implementation of this Regulation, among other things, to submit each year a report to the European Parliament, the Council, the Commission and the European Court of Auditors on the execution of the tasks conferred upon it by this Regulation.

7.2. Management and control system

7.2.1. Risk(s) identified

The proposal would not bring about new risks in relation to the legal, economical, efficient and effective use of budget appropriations.

However, internal risk management should take into account the specific nature of the financing mechanism of the Single Resolution Board. Differently from many other bodies set up by the Union, the services provided by the Board will be exclusively financed by financial institutions.

Secondly, the Board will be responsible for ensuring the management of the Deposit Insurance Fund. In this regard, a set of internal control procedures will have to be developed and established.

7.2.2. Information concerning the internal control system set up

The framework and rules for internal control should follow the pattern applied by other authorities established by the Commission, except for the management of the Single Resolution Board, which will require the establishment of a specific set of rules.

7.2.3. Estimate of the costs and benefits of the controls and assessment of the expected level of risk of error

Internal controls shall be embedded in the Board's procedures relevant to the discharge of its responsibility and the implementation of the tasks conferred to it. The costs of such procedures shall not exceed their benefits in avoiding material errors.

7.3. Measures to prevent fraud and irregularities

The Regulation establishes that a participating DGS shall not be covered by EDIS in the reinsurance, co-insurance or full insurance phase if the participating DGS or any other relevant authority of the respective Member State have failed to comply with the obligations under the Regulation or of Directive 2014/49/EU on deposit guarantee schemes.

For the purposes of combating fraud, corruption and any other illegal activity, the provisions of Regulation (EC) No 1073/1999 of the European Parliament and of the Council of 25 May 1999 concerning investigations conducted by the European Anti-Fraud Office (OLAF) shall apply to the Board without any restriction.

The Board shall accede to the Interinstitutional Agreement of 25 May 1999 between the European Parliament, the Council of the European Union and the Commission of the European Communities concerning internal investigations by the European Anti-

Fraud Office (OLAF) and shall immediately adopt appropriate provisions for all Board staff.

The funding decisions and the agreements and the implementing instruments resulting from them shall explicitly stipulate that the Court of Auditors and OLAF may, if need be, carry out on-the-spot checks at the beneficiaries of money disbursed by Board as well as on the staff responsible for allocating this money.

Articles 61-66 of the Regulation set out the provisions on implementation and control of the Board's budget and applicable financial rules.

8. ESTIMATED FINANCIAL IMPACT OF THE PROPOSAL/INITIATIVE

The analysis below provides an estimation of the overall costs for the Board and its administration. No costs are expected for the EU budget since all expenses of the board will be fully financed by the approximately 6,000 financial institutions covered by EDIS. The calculation method will be based on size and will be set out in a delegated act in 2016. For reasons of consistency, the same methodology should be applied under EDIS.

The tasks of the Board will be limited as regards Deposit Insurance. EDIS will evolve over the following three phases: (i) reinsurance, (ii) co-insurance and (iii) full insurance. In all phases, the Board will need to assess whether the requesting DGS complies with a number of provisions of Directive 2014/49/EU, notably whether it has built up its national fund. Different from the Board's function in resolution, there is no discretionary element in its decision, since the payment obligation of the participating DGS towards depositors (compensation) or towards a resolution authority (contribution to resolution) follows the determination of an administrative or judicial authority.

In the first phase, the Board will assess requests for reinsurance cover and provide the necessary funding to compensate national DGS within the limits of coverage. These tasks remain the same under the co-insurance phase, but, all other things being equal, one may expect a higher number of potential cases as the preconditions for coverage by EDIS are less restrictive than in the reinsurance period. Under full-insurance, the tasks of the Board would increase significantly. In addition to respond to requests for coverage, it would need to calculate and collect contributions from individual banks and manage the European Deposit Insurance Fund. These tasks are similar to tasks under the Single Resolution Mechanism. Hence significant economies of scale can be expected and the increase in tasks does not result in a proportionately increasing need for staff.

The staffing of DGS depends on the scope for the interventions. Some DGS have the possibility to use their funds for measures which would prevent institutions from failing, i.e. avoiding pay-out events in the first place. DGS with such possibility also have broader risk monitoring and management capabilities than DGS which mainly serve as 'paybox' to compensate depositors. The scope for EDIS would be limited to financially assist national DGS in such paybox function.

There is little publically available information on the staff levels of national DGS. A survey by the European Forum for Deposit Insurers indicates that levels for direct (i.e. without support functions) staff ranges between 10 and 40 FTE for such DGS with comparable functions to EDIS.

In view of the limited, but gradually increasing tasks of EDIS, the Commission proposes the following FTE for direct functions

- Under Reinsurance: 5 FTE (+ 0.5 FTE overhead)
- Under Co-insurance: 10 FTE (+1 FTE overhead)
- Under full insurance: 20 FTE (+2 FTE overhead)

Table: Indicative development of FTEs

Human Resources	2017	2018	2019	2020	2021	2022	2023	2024
Establishment plan posts: AD	4	4	4	4	8	8	8	16
Establishment plan posts: AST	0.5	0.5	0.5	0.5	1	1	1	2
Establishment plan posts: AST/SC	0	0	0	0	0	0	0	0
Total establishment plan posts	4.5	4.5	4.5	4.5	9	9	9	18
Contract agents	0.5	0.5	0.5	0.5	1	1	1	2
Seconded national experts	0.5	0.5	0.5	0.5	1	1	1	2
Total staff	5.5	5.5	5.5	5.5	11	11	11	22

DG FISMA currently has a ratio of overhead staff of 11.2 per cent. It is expected that for EDIS significant economies of scale can be achieved with the resolution functions of the board, notably in human resources management, the calculation and collection of contributions and the management of the fund. A 9% overhead ratio therefore seems feasible.

Table: Indicative development of expenditure

Expenditure	2017	2018	2019	2020	2021	2022	2023	2024
Title 1: Staff expenditure	658	658	658	658	1,315	1,315	1,315	2,631
Title 2: Infrastructure and operating expenditure	50	50	50	50	110	110	110	220
Title 3: Operational expenditure	116	116	116	116	232	232	232	464
Total	824	824	824	824	1,657	1,657	1,657	3,315

Main assumptions

Building on what has been assessed for the resolution function of the Single Resolution Board, the following distribution of personnel is suggested:

- 80% of TAs (68% of ADs and 12% of ASTs);
- 10% of ENDS;
- 10% of CAs.

Staff Regulation of EU institutions will be applied, which is reflected in the used per head rates:

- average yearly cost of a TA: EUR 131,000;

- average yearly cost of an END: EUR 78,000;
- average yearly cost of a CA: EUR 70,000.

In addition to the salary, this cost includes indirect costs such as building, training, IT and socio-medical infrastructure costs.

Since the Board has its seat in Brussels, a salary correction coefficient of 1 is used.

Operational expenditures are expected to amount to 15% of total Board's costs. This is significantly lower than the 25% estimated for the resolution function, since it is expected that costs for the development and maintenance of information systems and internal services could be shared with the resolution function.

8.1. Heading(s) of the multiannual financial framework and expenditure budget line(s) affected

No impact on the Union's budget.

- Existing budget lines

In order of multiannual financial framework headings and budget lines.

Heading of multiannual financial framework	Budget line	Type of expenditure	Contribution			
	Number [Heading.....]	Diff./Non-diff. ¹⁷	from EFTA countries ¹⁸	from candidate countries ¹⁹	from third countries	within the meaning of Article 21(2)(b) of the Financial Regulation
	[XX.YY.YY.YY]	Diff./Non-diff.	YES/NO	YES/NO	YES/NO	YES/NO

- New budget lines requested

In order of multiannual financial framework headings and budget lines.

Heading of multiannual financial framework	Budget line	Type of expenditure	Contribution			
	Number [Heading..... ...]	Diff./Non-diff.	from EFTA countries	from candidate countries	from third countries	within the meaning of Article 21(2)(b) of the Financial Regulation
	[XX.YY.YY.YY]		YES/NO	YES/NO	YES/NO	YES/NO

¹⁷ Diff. = Differentiated appropriations / Non-diff. = Non-differentiated appropriations.

¹⁸ EFTA: European Free Trade Association.

¹⁹ Candidate countries and, where applicable, potential candidate countries from the Western Balkans.

8.2. Estimated impact on expenditure

No impact on the Union's budget.

8.2.1. Summary of estimated impact on expenditure

EUR million (to three decimal places)

Heading of multiannual financial framework	Number	[Heading.....]
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DG: <.....>			Year N ²⁰	Year N+1	Year N+2	Year N+3	Enter as many years as necessary to show the duration of the impact (see point 1.6)			TOTAL
• Operational appropriations										
Number of budget line	Commitments	(1)								
	Payments	(2)								
Number of budget line	Commitments	(1a)								
	Payments	(2a)								
Appropriations of an administrative nature financed from the envelope of specific programmes ²¹										
Number of budget line		(3)								
TOTAL appropriations for DG <.....>	Commitments	=1+1a +3								
	Payments	=2+2a +3								

²⁰ Year N is the year in which implementation of the proposal/initiative starts.

²¹ Technical and/or administrative assistance and expenditure in support of the implementation of EU programmes and/or actions (former 'BA' lines), indirect research, direct research.

• TOTAL operational appropriations	Commitments	(4)								
	Payments	(5)								
• TOTAL appropriations of an administrative nature financed from the envelope for specific programmes		(6)								
TOTAL appropriations under HEADING <....> of the multiannual financial framework	Commitments	=4+ 6								
	Payments	=5+ 6								

If more than one heading is affected by the proposal / initiative:

• TOTAL operational appropriations	Commitments	(4)								
	Payments	(5)								
• TOTAL appropriations of an administrative nature financed from the envelope for specific programmes		(6)								
TOTAL appropriations under HEADINGS 1 to 4 of the multiannual financial framework (Reference amount)	Commitments	=4+ 6								
	Payments	=5+ 6								

Heading of multiannual financial framework	5	‘Administrative expenditure’
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EUR million (to three decimal places)

		Year N	Year N+1	Year N+2	Year N+3	Enter as many years as necessary to show the duration of the impact (see point 1.6)		TOTAL
DG: <.....>								
• Human resources								
• Other administrative expenditure								
TOTAL DG <.....>	Appropriations							

TOTAL appropriations under HEADING 5 of the multiannual financial framework	(Total commitments = Total payments)								
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EUR million (to three decimal places)

		Year N ²²	Year N+1	Year N+2	Year N+3	Enter as many years as necessary to show the duration of the impact (see point 1.6)		TOTAL
TOTAL appropriations under HEADINGS 1 to 5 of the multiannual financial framework	Commitments							
	Payments							

²²

Year N is the year in which implementation of the proposal/initiative starts.

8.2.2. Estimated impact on operational appropriations

- ☐ The proposal/initiative does not require the use of operational appropriations
- ☐ The proposal/initiative requires the use of operational appropriations, as explained below:

Commitment appropriations in EUR million (to three decimal places)

Indicate objectives and outputs ↓			Year N		Year N+1		Year N+2		Year N+3		Enter as many years as necessary to show the duration of the impact (see point 1.6)						TOTAL	
	OUTPUTS																	
	Type ²³	Average cost	No	Cost	No	Cost	No	Cost	No	Cost	No	Cost	No	Cost	No	Cost	Total No	Total cost
SPECIFIC OBJECTIVE No 1 ²⁴ ...																		
- Output																		
- Output																		
- Output																		
Subtotal for specific objective No 1																		
SPECIFIC OBJECTIVE No 2 ...																		
- Output																		
Subtotal for specific objective No 2																		
TOTAL COST																		

²³ Outputs are products and services to be supplied (e.g.: number of student exchanges financed, number of km of roads built, etc.).

²⁴ As described in point 1.4.2. 'Specific objective(s)...'

8.2.3. Estimated impact on appropriations of an administrative nature

8.2.3.1. Summary

- ☐ The proposal/initiative does not require the use of appropriations of an administrative nature
- ☐ The proposal/initiative requires the use of appropriations of an administrative nature, as explained below:

EUR million (to three decimal places)

	Year N ²⁵	Year N+1	Year N+2	Year N+3	Enter as many years as necessary to show the duration of the impact (see point 1.6)			TOTAL
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HEADING 5 of the multiannual financial framework								
Human resources								
Other administrative expenditure								
Subtotal HEADING 5 of the multiannual financial framework								

Outside HEADING 5²⁶ of the multiannual financial framework								
Human resources								
Other expenditure of an administrative nature								
Subtotal outside HEADING 5 of the multiannual financial framework								

TOTAL								
--------------	--	--	--	--	--	--	--	--

The appropriations required for human resources and other expenditure of an administrative nature will be met by appropriations from the DG that are already assigned to management of the action and/or have been redeployed within the DG, together if necessary with any additional allocation which may be granted to the managing DG under the annual allocation procedure and in the light of budgetary constraints.

²⁵ Year N is the year in which implementation of the proposal/initiative starts.

²⁶ Technical and/or administrative assistance and expenditure in support of the implementation of EU programmes and/or actions (former 'BA' lines), indirect research, direct research.

8.2.3.2. Estimated requirements of human resources

- ☐ The proposal/initiative does not require the use of human resources.
- ☐ The proposal/initiative requires the use of human resources, as explained below:

Estimate to be expressed in full time equivalent units

	Year N	Year N+1	Year N+2	Year N+3	Enter as many years as necessa ry to show the duratio n of the impact (see point 1.6)
• Establishment plan posts (officials and temporary staff)					
XX 01 01 01 (Headquarters and Commission's Representation Offices)					
XX 01 01 02 (Delegations)					
XX 01 05 01 (Indirect research)					
10 01 05 01 (Direct research)					
• External staff (in Full Time Equivalent unit: FTE)²⁷					
XX 01 02 01 (AC, END, INT from the 'global envelope')					
XX 01 02 02 (AC, AL, END, INT and JED in the delegations)					
XX 01 04 yy ²⁸	- at Headquarters				
	- in Delegations				
XX 01 05 02 (AC, END, INT - Indirect research)					
10 01 05 02 (AC, END, INT - Direct research)					
Other budget lines (specify)					
TOTAL					

XX is the policy area or budget title concerned.

The human resources required will be met by staff from the DG who are already assigned to management of the action and/or have been redeployed within the DG, together if necessary with any additional allocation which may be granted to the managing DG under the annual allocation procedure and in the light of budgetary constraints.

Description of tasks to be carried out:

Officials and temporary staff	
External staff	

²⁷ AC= Contract Staff; AL = Local Staff; END= Seconded National Expert; INT = agency staff; JED= Junior Experts in Delegations.

²⁸ Sub-ceiling for external staff covered by operational appropriations (former 'BA' lines).

8.2.4. *Compatibility with the current multiannual financial framework*

- ☐ The proposal/initiative is compatible the current multiannual financial framework.
- ☐ The proposal/initiative will entail reprogramming of the relevant heading in the multiannual financial framework.

Explain what reprogramming is required, specifying the budget lines concerned and the corresponding amounts.

- ☐ The proposal/initiative requires application of the flexibility instrument or revision of the multiannual financial framework.

Explain what is required, specifying the headings and budget lines concerned and the corresponding amounts.

8.2.5. *Third-party contributions*

- The proposal/initiative does not provide for co-financing by third parties.
- The proposal/initiative provides for the co-financing estimated below:

Appropriations in EUR million (to three decimal places)

	Year N	Year N+1	Year N+2	Year N+3	Enter as many years as necessary to show the duration of the impact (see point 1.6)			Total
Specify the co-financing body								
TOTAL appropriations co-financed								

8.3. Estimated impact on revenue

No impact on the Union's budget.

- ☐ The proposal/initiative has no financial impact on revenue.
- ☐ The proposal/initiative has the following financial impact:
 - ☐ on own resources
 - ☐ on miscellaneous revenue

EUR million (to three decimal places)

Budget revenue line:	Appropriations available for the current financial year	Impact of the proposal/initiative ¹						
		Year N	Year N+1	Year N+2	Year N+3	Enter as many years as necessary to show the duration of the impact (see point 1.6)		
Article								

For miscellaneous 'assigned' revenue, specify the budget expenditure line(s) affected.

--

Specify the method for calculating the impact on revenue.

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¹ As regards traditional own resources (customs duties, sugar levies), the amounts indicated must be net amounts, i.e. gross amounts after deduction of 25 % for collection costs.